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THE GOLD STANDARD OF CURRENCY IN THE LIGHT OF RECENT THEORY.

WHAT kind of currency this country is to have is, in the main, to be decided by the people. Among the influences that are shaping the popular verdict on this point there are two delusions and a number of imperfect theories. One delusion concerns the relation of money to the rate of interest. Many persons still think that low interest is to be secured by inflating the currency, instead of by slowly accumulating real capital. This is a point on which theory is already clear and convincing. A dissemination of truth would be useful, but new discoveries are not necessary. Such is not the case, however, in respect to the imperfect theories above referred to. Here science is not ripe for mere dissemination. Thinkers disagree on certain points; and one of these is the question: To what standard of value ought currency to conform, in order to do exact justice to debtor and creditor? The science of value ought at least to tell us how justice in this relation is to be done.

Injustice can come in one of two ways: the contract of payment may be violated, or into the making of the contract itself there may enter some element of unfairness. A man may not do what he has promised to do, or he may in some way have been induced to make a promise the keeping of which would injure him. It is conceivable that he may have made an injurious promise because he is personally ignorant, and his creditor may have taken an advantage of him. On the other

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hand, events may have occurred since the contract was made that were not foreseen by either party in the transaction, and these may have the effect of making the fulfillment of the contract unexpectedly difficult. The price of wheat, in terms of gold, may be low; and it may be hard for a wheat-grower to fulfill a gold-paying contract.

This is not saying that it is unjust to make him fulfill it. It begs a far-reaching question to assert that a debtor ought not to be made to meet unforeseen hardships. The easy identification of hardship imposed on debtors by events with wrong inflicted on them by creditors, is one of the features of the present situation. If under such circumstances the collection of debt means a wrong, it is the law that is held responsible for it; and an effort to change the legal terms of payment will be made. As the law now only exacts the literal fulfillment of a promise, a change in the terms of the law can relieve the debtor only by excusing him from such a fulfillment. The plan would be to introduce the literal wrong of allowing promises to be violated, in order to remedy a supposed virtual wrong involved in enforcing the contract under changed conditions. If gold has become dear, substitute a lighter dollar than the one referred to in the contract, or a dollar made of a different metal! One can see in a moment how this would work.

To make the legal dollar heavier or lighter than that which the debtor has received and has promised to pay, or to coin it from a different metal, is to violate both the letter and the spirit of a myriad of contracts. If it corrects the unequal — we do not say unjust — action of some contracts of long standing, it introduces clear injustice into the fulfillment of many times more numerous contracts which are of recent date. Morally as well as otherwise it is a costly way to correct the dealings of evolutionary fate or of Providence. Monetary contracts in force to-day were largely made yesterday. The overwhelming majority of them were made within the year just completed. Some, such as are embodied in bonds of governments and of corporations and in mortgage notes, date from remoter periods in the past. Let it be supposed that within ten years the

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purchasing power of the gold dollar has gained ten per cent in terms of agricultural labor, shall we take a tenth from the weight of the coin, in order to correct existing contracts and make them conform to a fair standard? If the appreciation of gold has been uniform through the ten years, it requires only a little arithmetic to show that on all the vast majority of contracts still pending, — those, namely, that have been made within the latter half of the period, — we shall create more inequality than we remedy. In the case of all that have been made within a year we directly rob one party to the contract, and give the proceeds to the other. The contracts made in the immediate past have been made in terms of a dollar of a known labor value, and one that, on every ground, ought to be paid in terms of the same unit. The wrong and the practical harm that have resulted from changing the metallic weight or quality of the coins that are the bases of contracts are too apparent to need argument.

The second possibility of evil which we noticed comes from a matching of ignorance against knowledge in the making of contracts for future payments. The coin which the debtor receives and agrees to repay may be foreordained to increase in purchasing power. One party, say the creditor, may know this, and the debtor may not. Ignorantly the debtor may take upon himself the obligation to pay the equivalent of more units of labor than he gets when the loan is made. Beyond simple interest he ignorantly promises to pay a bonus on his loan. If he pays a nominal rate of five per cent in interest, he may pay a real rate of six. At the expiration of the time covered by the loan he will have to pay, in effect, more labor than he received. For money wherewith to satisfy his creditor he must work more than the creditor worked, or caused other men to work, in order to get the money with which the loan was made. He may have to pay, in short, more of real wealth than he received.

Now it is clear that, if such a result is foreseen, it can be corrected by varying the nominal rate of interest. Under the assumed conditions, the loan of real capital should be

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repaid, at the end of ten years, by an equal amount of real capital and fifty per cent more in the way of total interest. This would afford a real interest of five per cent per annum. If money gains in purchasing power at the rate of one per cent per annum, or ten per cent in ten years, then nearly one per cent can be deducted from the nominal rate of interest promised in the note without reducing the true rate of interest on the loan of true capital below five per cent. By repaying at the end of the time the original sum of money loaned, and by paying at intervals through the period a sum aggregating forty per cent in the way of interest, the debtor really pays fifty per cent, because the principal of the loan, at the time of repayment, represents ten per cent more in real wealth than it did when the loan was contracted. Would an ignorant debtor be able to take advantage of this fact? Would he reduce the nominal interest that he agrees to pay, so as to make the real interest correspond with the earnings of capital?

If the transactions between a debtor and a creditor were made in isolation, and without influence from a general loan market, the one who best foresaw the future might be able to take advantage of the other. This, however, is a nearly impossible case. In a single transaction with one borrower, a lender of capital must usually content himself with about the rate that he could get for it in the general market; and the borrower, however ignorant of the future he may be, is only obliged to know about how much he would have to pay in the same general market. The prevalent rate of interest on loans dominates individual transactions. In the general market it is impossible that knowledge of the future should be very unevenly distributed. Lenders, as a body, know as much as borrowers, and not more. If the rate secured on loans of money corresponds to the earning capacity of real capital, as by any clear theory it should do, then the variations in the purchasing power of money are unerringly corrected through the nominal rate of interest.

That such a correction is actually made when changes in the purchasing power of money are generally foreseen, admits

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of little doubt. In the course of one of the ablest speeches recently made in the Senate in behalf of the free coinage of silver, the speaker was asked how he knew that gold had appreciated in value. He replied, that he wanted no better proof than the low rate of interest prevailing. "Men do not," said he, "agree to pay a large percentage when the money in which the repayment of the principal must be made is becoming more and more costly." It was a naïve confession that a debtor does not suffer nor a creditor gain by a change in the purchasing power of coin, provided that the change is generally anticipated. There may be aberrations in the working of this law, as there are in the case of other laws of economics; that on a large scale it does work is not doubtful.

Unforeseen changes remain to be provided for. If gold be the basis of currency, the mining of it may be quickened or retarded in ways that the market cannot anticipate, and therefore cannot discount. The volume of business and the demand for money may change. It follows that any metallic currency may deviate somewhat from a perfectly ideal currency. Unforeseen variations do not introduce any element of fraud into the making and paying of debts. They introduce a residuum of uncertainty into contracts that cover long intervals of time. One party is liable to gain somewhat at the cost of the other. Suggestions have been made for the removal of this residue of inequality. A multiple standard has been proposed whereby the unit of payment should consist in a variable amount of metal, with a fixed amount of "commodity." As much gold as may be worth a pound of tea, a pound of wool, a bushel of wheat, *etc.*, would be the unit of loans and payments. It is worth while to determine whether this is the right theoretical standard of payments, though not mainly for the sake of ever using it in practice. The chief thing to be gained is a knowledge of what is the true standard, and a power of determining how far any metallic standard deviates from it.

We have to remember that the only real motive for using any multiple standard is to correct inequalities that are not now corrected by means of the nominal rate of interest. These

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are only such inequalities as are not foreseen by the business world. A slow, steady and calculable advance or decline in the commodity value of metallic money would do no serious harm. A rapid, irregular or incalculable variation in the purchasing power of it would do harm. We can form an idea of the extent of this liability to evil by a study of the true theoretical standard of deferred payments. What is that standard? This point may seem to lie in the region of pure theory. In reality it is the point of largest practical consequence. If we can settle the question involved, we shall be in a position to know whether a currency based on gold is or is not the best that we can practically get.

There is an ideal standard to which it is best that the value of money, metallic or other, should conform. The social change that affects in a most important way the payment of debts is the transition from a time of prosperity to one of depression. Incur a debt when industry is very productive, and pay it when industry produces only a little, and you suffer a hardship. The creditor has loaned something that he procured with comparative ease; and you pay what you get with difficulty. There are cyclical changes in business that bring this alteration, on the average, about once in a decade. With some irregularities and secondary movements, the crisis, following the "boom" that is the cause of it, comes about once in ten years. It is of the greatest importance to note, what a full study of these movements would reveal, that the prosperity of the one period and the adversity of the other are not due respectively to healthy and to unhealthy social conditions. It is the boom that deranges society; and the chief phenomena of the following crisis constitute a remedial operation. The productive forces are misadjusted during the boom, and are readjusted, in a painful way, during the period of depression.

The *sensation* of social derangement comes when the forces of industry are recovering their normal position and action. The nature of each process can be fairly well analyzed. There ought to be little doubt as to what it is in the over-stimulated industry that constitutes a derangement of the organs of social

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production, and what it is in the suffering time that follows that really restores health, or a natural adjustment of social organs and functions. It ought to be possible to look at the practical world with enough of scientific discernment to see the element of disease in the feverish activity of the boom, and the element of recuperation amid the waste and suffering of the panic. By the signs of the times the coming of either period ought to be measurably anticipated, and in monetary transactions it ought to be in a certain degree discounted. The periodicity of panics is a help. While quite accurate forecasts are not to be expected, it would be an undiscerning view which should not give to the business world the credit of anticipating this cyclical movement to a certain extent, and of taking some account of it in those general transactions by which the rate of interest is gauged.

This cyclical movement of business is of much importance in connection with what is termed the "elasticity" of a circulating medium ; but it is of minor consequence in connection with the question of the ideal standard of value, to which the coin that is the basis of a currency ought to conform. It is the secular change in social prosperity that is here important. Measure the productive power of the world at intervals fifty years apart, and you discover each time an appreciable advance. There is a chance that even this change may, in a considerable degree, be anticipated and discounted in monetary transactions. Yet an ideal currency would be one that will work fairly, as between debtor and creditor, in case the gain in productive power is not taken into full account in adjusting the rate of interest.

There is no question of fraud here to be raised. A debtor may gain and a creditor may lose, and *vice versa*, by the terms of a perfectly just contract; and it would be a pernicious principle that should seek to remove such an inequality by tampering with the currency, and so impairing the validity of the contract. It is, however, precisely because a popular impulse to resort to this perilous expedient again and again appears, that it is in a high degree desirable to have such a currency

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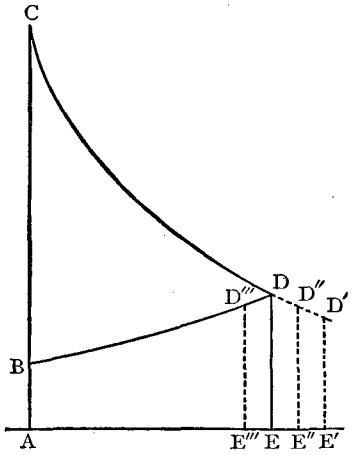
that secular changes may affect debtor and creditor alike. If the world becomes more prosperous while the loan is running, let them share alike in the gain. When debt-scaling movements lose their theoretical backing, they become impotent. The argument that proves to a debtor's satisfaction that the literal payment of his debt will virtually rob him, is what raises the defaulting policy to a moral level at which it can win votes.

At this test point theory ought to be clear. When a man makes over money to another, he does for him a service that has a positive and a negative side. First, he enables the receiver of the money to get commodities; secondly, he enables him to avoid labor. The receiver of the money may take the benefit in either form. If he gets a hundred dollars, and if wages are a dollar a day, he may work as much as he formerly did, and have a hundred dollars' worth of extra commodities for consumption. In this case, he takes the benefit in a positive form. If, however, he prefers to content himself with the amount of goods that he formerly consumed, he can take a hundred holidays or two hundred half-holidays. In any case, the benefit that he gets resolves itself into a release from a certain amount of work. It is a real gain, computed in a negative way. In practice, he will take the benefit partly in one way and partly in the other.



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Resorting to a graphic expression, we may let the hours of labor in a day be measured on the line A E. There are ten hours in a working day, and a man gets a dime for each of them. The sacrifice involved in the different hours is not uniform. Fatigue increases toward the close of the day, and confinement is then more severely felt. We will measure the sacrifice incurred in different parts of the day by vertical distance from the line A E. At the beginning of the day it is A B, and at the end it is E D. Through the day the sacrifice involved in labor ascends along the curve B D.

Now the personal gains that come from spending the dimes as they are earned, diminish as there are more and more of them to be spent. With the first dime the man buys food worth to him the amount expressed by A C. With the next dime he buys what is by one point less important; and with the last he buys what in his scale figures as a luxury. It is something that to him has an importance expressed by E D. This last purchase barely pays for the personal cost of securing it. This same line, E D, measures the sacrifice entailed by earning the money by means of which the final commodity was bought. It is a coincident measure of final gain and final sacrifice.

If industry were to become more productive, and if labor were to share in the prosperity in full measure, what would the man do? Would he still work through ten hours, and pocket his increased earnings? That would be a bad policy. With the earnings of ten hours of labor he can get more commodities than before, but they must have a reduced utility. The last thing bought is now worth E′ D′, while the money that buys it cost E D. In order that the final sacrifice entailed by a day's labor may not more than offset the gain secured by means of it, the day must be somewhat shortened. If an hour be taken from the length of the day, the final cost of the labor will be E‴ D‴. The final utility of goods secured will be E″ D″; and these two lines are equal. The final sacrifice equals the final gain.

Theoretical as this statement may seem, it expresses one of the most dominant facts in industrial life. There is no risk in

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asserting that the principle thus stated works in practice. As the earnings of labor increase in terms of commodities, the duration of the working day is shortened. It tends to conform in length to the rule of equal final gain and final sacrifice.

What relation has this fact to the question of currency? A decisive one. If a unit of currency conforms to the amount of commodity secured by a *day* of labor, it will be an ideally right one; for it will divide equally between debtor and creditor the gains that come through industrial progress. Such an ideal dollar, if we use the American unit as the test, would buy a continually increasing amount of general commodities, and it would buy a decreasing number of *hours* of labor. If the number of hours of labor put into each day were quite normal, the ideal unit of currency would, as already stated, command an unvarying fraction of an average day of labor. If a thousand dollars loaned in 1800 cost a thousand days of labor, the same amount, as repaid in 1850, would cost the same number. Labor that diminishes in actual amount, as measured in hours, and that diminishes in sacrifice entailed, — this affords a standard of payment by which debtor and creditor may share alike in the benefits of progress.

It will be labor that increases in power to produce goods. If the creditor, in making the loan, gave to the debtor the power to get a hundred commodities, representing a hundred hours of labor; and if the debtor at the end of fifty years pays to his creditor money that will buy a hundred and ten similar commodities, but was earned by ninety hours of labor: the gains from progress are shared in a way that is practically even. The arithmetic of the case is simple; but let us make sure of it. The debtor has paid more commodities than he received. An excess of positive benefit has come to the creditor. The debtor has worked for the creditor less than, at the time when the loan was made, the creditor, or some one controlled by him, worked for the debtor. An equivalent gain, as negatively computed, thus comes to the debtor. Moreover, it is possible for either party to transmute a negative gain into a positive one, and *vice versa*. The debtor may, if he will, work a hundred

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hours instead of ninety. In that case he will be able to pay his debt and keep for his own use the commodities produced in the extra period of ten hours. Again the creditor, on receiving the hundred and ten units of commodity, may consume only as many as it was his former custom to consume. Having ten extra units in his hands, he may elect to work for about eighty hours in a given period instead of ninety. His positive gain will then have been translated into a relief from work.

What will be done in fact by both parties is to take the gain partly in one form and partly in the other. If there were ten hours in a working day when this loan was made, and nine when it was paid, then the work of ten days performed by the creditor for the debtor should be paid by the work of ten days performed by the debtor for the creditor. In general, the ideal unit of deferred payments is one that, as the productive power of labor increases, represents more and more commodities and fewer and fewer hours of labor. If the duration of a working day be reduced in a natural way, this unit represents a constant nominal amount of labor, as estimated by the day.

Now if a government were to resort to the same process that is involved in the theoretical multiple standard, — the process, namely, of varying at short intervals the bullion weight of the unit of currency, — any metal or other material might in some sort be made to serve the purpose of debt-paying. The debtor promises to pay a fixed number of dollars consisting of some specified material. It might be gold, silver, copper, tobacco or wampum; if the amount that by law should constitute a dollar were at all times made to be that amount which, in the actual market, would buy a day of labor of average quality, the contract would be enforced, and the parties would be secured against unequal treatment by social destiny. Yet it is clear that a metal that should require little of such correcting would be better than one which should require much of it; and if, by happy chance, any one metal conformed approximately in its bullion value to the value of the changing labor day, it would be out of the question to think of instituting the system of varying the weight of bullion used as the unit of payment.

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Has gold, for the last fifty years, had in the world at large a fairly uniform power to buy average days of labor? Has the average day of labor grown shorter? Has it come to command more commodities than it earned at the beginning of the half-century? If statistics answer these questions affirmatively, they establish the claims of gold as a standard of currency during a period of very great disturbance. If lesser disturbances are to be expected hereafter, the claims of this metal are to that extent greater. It would furnish a poor standard if an ounce of it could purchase to-day no more commodities than it could have bought fifty years ago. It would be a defective standard if an ounce of it to-day paid for as many hours of labor as it paid for in 1845. It is the best standard that practically can be had if an ounce of it commands, with minor variations, about as many average days of labor as it did at the beginning of the period.[1]

The standard that we have attained is, then, an ideal one, in the sense that it most effectually precludes inequality of treatment of debtor and creditor when contracts are literally enforced. A labor day of enlarged power to produce, and of diminished power to inflict sacrifice, constitutes this standard. If the metallic unit of money were kept in constant agreement with this standard, the necessity for forecasting the future condition of business and adjusting the interest on loans to that future condition, would in a large degree be removed. If we used as money treasury notes calling for "dollars"; if we re-

[1] In a brief statement like this, practical variations from theoretical law must as a rule be left unstudied. One, however, must at least be noticed. In the course of fifty years a change in social psychology may take place, partly in consequence of industrial gains. This may lead men to prefer gains that come in the positive form, rather than those that consist in a relief from labor. There may be an increased ardor for accumulation, and men may prefer to work long and acquire capital, rather than to shorten their labors as much as the principle above cited would require. Moreover, their consumption may become more and more varied, and the effects discussed by Professor Patten in his Theory of Dynamic Economics may ensue. This tends to make men prefer to take gains from industrial progress rather in the form of increasing goods than in that of diminishing labor. In so far as this disturbing influence modifies the law before stated it causes the ideal standard of deferred payments to represent slightly less than the labor day practically adopted.

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deemed these notes on presentation in gold; and if we made the amount of gold paid for them so to change from time to time that on any particular day it would actually secure a fixed fraction of an average day's labor, — there would be no need of varying the rates of interest so as to counteract the effect of changes in the purchasing power of money. The need of such forecasts and such adjustments of rates of interest arises only because the dollar is of a fixed weight and may vary from the ideal standard.

The dollar of variable weight suggested in the above illustration *would conform to that standard of value from which the variations of value of a dollar of fixed weight ought to be calculated.* In the main it is the standard from which, as I think, the variations actually are calculated, not so much when the value of money is discussed as when interest is computed. Unconsciously and in computations in which personal gains are at stake, we use the right standard for computing the variations in the purchasing power of money. These variations, which call for forecasts wherever rates of interest are to be fixed for long periods of time, are capable of being largely neutralized by such forecasts. The evil that can come from the fact that a gold dollar has a fixed weight is reduced to very small dimensions. Within any but a very long period it conforms closely to the ideal standard. The variations that occur in such a long period are largely counteracted through adjustments of the rate of interest. An uncorrected remainder of a small variation remains.

Opinions will vary as to the degree in which the length of the actual working day differs from that of the theoretical day, which, if the foregoing deductions are correct, furnishes an ideal standard for money. Views will vary as to the extent to which the gold dollar has lost in its power to purchase hours of labor. If we think that ideally it ought to lose in its power to buy hours of labor as much as it gains in its power to buy commodities, we shall unite in thinking that its actual behavior has varied comparatively little from the ideal requirements. In any case it has gained where it should have gained, — in

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its power to buy commodities measured in kind; and it has lost where it should have lost, — in its power to buy average labor, measured by the hour. How nearly in quantity the loss offsets the gain, is an unsettled question.

There is an influence at work that, in the immediate future, may throw into the background the question of the true bullion weight of metallic money. It is the question of the volume of general currency. Here a second delusion has an unhappy effect. It is more widespread than the former delusion, which concerns the relation of the volume of currency to the rate of interest. This concerns the relation of the volume of currency to permanent prosperity. An easy acceptance is given to the thesis that rising prices always mean prosperity. They do indeed attend that movement of recovery that follows a business crisis. The crash wrecks prices in many directions, and the resumption of business restores them. The boom that follows the natural restoration and that precedes the next crisis raises prices abnormally. On the whole, the western world is committed to the "booming" policy, or to that course which exaggerates both the feverish activity that simulates prosperity but really means disease, and the collapse that opens the way to health.

If a currency is to vary from the ideal one in volume, as well as in the bullion value of the coin on which it is based, in which direction should the variation be? Is it better to use the currency as a means of slightly raising prices, or is it preferable slightly to depress them? Is not the answer furnished by determining whether the oscillating movement of business is a good or an evil? Changes in the volume of currency may increase or diminish these oscillations. There is much to be said in favor of "elasticity" in currency, provided that it stretches in times of panic and contracts at the time when society is preparing the way for the panic by speculative activities. Shall the pulse be quickened at the critical moment when the fever is beginning? When commodities of all sorts are bought, not to be used by consumers, but to be held and sold for a profit, then the actual derangement of the social

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organism occurs. The currency that inflates at that point renders inevitable the panic, in which even a good currency betakes itself to holes in the earth. Such a rhythmical inflation of currency is the worst of all inflations.

The steady enlargement of metallic money is less perilous; but, in the long run, we shall and must learn to value steadiness of commercial movement above all other things that can be attained by means of currency. It will be at the beginning of the boom that we shall learn to deal with the panic. Even the steady enlargement of the currency, if it be out of proportion to the increasing volume of business, favors speculation and the wasteful alternations of business conditions to which the world is unhappily accustomed. One might shrink from contracting the currency in order to prevent commercial fevers; but if nature slightly contracts it, she will do us a kindness that is not even veiled. It is well that the variations of the value of money from the ideal standard should be as small as is possible. It is well that such variations as occur should not make hard times harder, by aggravating the disease that lurks under apparent prosperity.

JOHN B. CLARK.

COLUMBIA COLLEGE.

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THE IDEAL OF THE AMERICAN COMMONWEALTH.[1]

IT is now many years since I have attempted to produce an essay upon an assigned subject. There are some advantages, however, in accepting such a task. One of them is that the recluse who has been moving for a long period within the limits of his own narrow circle of thought, is made to see what the world without regards as important. Left to myself, I should hardly have chosen so ambitious a subject as "The Ideal of the American Commonwealth." Left to myself, I should have selected a much narrower subject, to be treated with much more detail. Above all things I should not have ventured into the realm of prophecy. Relieved as I am, by the assignment of my subject, from the exercise of any discretion in regard to these things, I am in consequence also relieved from any responsibility for the inevitable result of being compelled to treat such a subject with the required brevity and conciseness. One thing, however, I have American enthusiasm enough to say at the outset: if I succeed in presenting the "Ideal of the American Commonwealth," I believe I shall have presented the ideal commonwealth for the world.

On the threshold of my treatment I must meet the question as to what is intended, on the part of those who have assigned me this subject, by the phrase: "The Ideal of the American Commonwealth." Do they mean the ideal as it lies in my own mind — the ideal of my individual speculation, my own thought or, perhaps, dream as to what that commonwealth ought to be? Or do they mean the goal toward which our American commonwealth, the commonwealth of these United States, is making its historic progress?

[1] This essay was prepared for, and read in, the Political Science section of the Auxiliary Congress of the Columbian Exposition. The subject was chosen and assigned by the committee in charge of the section.

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Happily I am not compelled to choose between the two alternatives; or, if I am, it matters not which I choose; for I can conceive no higher political ideal than that which I believe our American commonwealth is evidently destined to realize. This is optimistic, I know; but the longer I read and ponder the history of our country the more clearly I see that every great movement in that history has been a distinct step in advance towards a great ideal. My old friend and teacher, the great Prussian historian Professor Droysen, once said to me:

> The thing that impresses me as most significant in the history of your country is that you solve your problems just at the right moment; you strike exactly when the blow will be most effective; and you show a distinct advance towards the ideal in every stage of your development.

With such testimony from the great foreigner, an American of the earliest stock may be excused for cheerfulness of view.

As I said above, should I succeed in presenting the ideal of the American commonwealth, I shall have presented the ideal commonwealth *for* the world. Let it be remarked that I do not say, the ideal commonwealth *of* the world. In this difference of prepositions is involved an alternative of widely divergent propositions. Must the ideal American commonwealth be a world-state — a cosmopolitan state — or must it be a national state? And if not cosmopolitan in its origin, must it be cosmopolitan in its application — an example for world-imitation? These are the first questions of modern political science, and involve the first principles to be established in the construction of our ideal.

As I have indicated in my choice of words, I take it that the ideal American commonwealth must be national in its origin, and cosmopolitan in its example. This is my fundamental proposition, and to its defense I must devote a chief part of my argument.

If we regard for a moment the history of the world from the point of view of the production of political institutions, we

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cannot fail to discern that all the great states of the world, in the modern sense, have been founded and developed by three branches of the Aryan race — the Greeks, the Romans and the Teutons; that these three branches are territorially European; and that, upon the European soil, they have become distinct nations. Indian America has left no legacies to modern civilization; Africa has as yet made no contributions; and Asia, while producing all of our great religions, has done nothing, except in imitation of Europe, for political civilization. We must conclude from these facts that American Indians, Asiatics and Africans cannot properly form any active, directive part of the political population which shall be able to produce modern political institutions and ideals. They have no element of political civilization to contribute. They can only receive, learn, follow Aryan example. Hence my proposition that the ideal American commonwealth is not to be *of* the world, but *for* the world — is to be national in its origin, but cosmopolitan in its application.

But if national, what shall be the nationality? The merest glance at the census tables will show us that it *is* Aryan, and predominantly Teutonic. The historic facts which I have already adduced demonstrate that it *must be* Aryan. And the historic facts which I shall now present will explain that if Aryan, it must be Teutonic. These facts are (1) the loss, in large degree, of the Aryan genius on the part of the Greeks, by their amalgamation with the Turks and other Asiatic populations, and (2) the same loss on the part of the Romans, in nearly equal degree, by their amalgamation with the Saracens in Europe and Africa, and with the Indians in South and Middle America. Only the race-proud Teutons have resisted amalgamation with non-Aryan branches, while they have suffered but in small measure the mixture of other Aryan blood. Only the race-proud Teutons, thus, have preserved the Aryan genius for political civilization; and, while guarding jealously their own type of that genius, they have supplemented it with those elements of permanent value that belong more specifically to the Greek and Roman types.

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I consider, therefore, the prime mission of the ideal American commonwealth to be the perfection of the Aryan genius for political civilization, upon the basis of a predominantly Teutonic nationality, — emancipated, however, from the remaining prejudices of European Teutonism against the other branches of the Aryan family and against the genuine products of their exertions. And I conceive that the political system evolved through such a development will be the model for the political organization of the world.

If such, in truth, be the transcendent mission of the American commonwealth, — and I cannot see how any student of history can read it otherwise, — what folly, on the part of the ignorant, what wickedness, on the part of the intelligent, are involved in the attempts, on the one side to sectionalize the nation, or on the other, to pollute it with non-Aryan elements. Both have been tried, and both, thanks to an all-wise Providence, have failed; for both were sins against American civilization, and both were sins of the highest order. We must preserve our Aryan nationality in the state, and admit to its membership only such non-Aryan race-elements as shall have become Aryanized in spirit and in genius by contact with it, if we would build the superstructure of the ideal American commonwealth.

If this proposition should be met with the objection that it contemplates an aristocratic instead of a democratic state, I would answer, that there is not now, and that there never has been, a non-Aryan democratic state; that Aryan nationalities alone have created democratic states; that no other peoples or populations have ever given the slightest evidence of the ability to create democratic states; and that Aryan history is ever moving toward the realization of genuine democracy and the impartation of its example to the world. I cannot arbitrarily turn from that direction which must be followed in treading the path of the world's history, and pursue the baseless speculation of a fanatical humanitarianism.

So much for the foundation in the ideal of the American Commonwealth — Aryan nationality and national sovereignty. Let us now look to the superstructure. It does and it must

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proceed from two centers of construction, *viz.*, individual liberty and self-government.

Individual liberty to the highest degree consistent with the necessities of government and the welfare of the community, defined and guaranteed by the constitution and interpreted and protected by the courts, is the most significant product of American Aryanism. The perfect development of this conception is, next to the perfection of our nationality, the most important element of the ideal which we seek in our thought and in our progress.

All political civilization rests upon human capacity; individual capacity is the basis of collective capacity; and individual liberty is the indispensable condition of the development of individual capacity. This is the Aryan doctrine upon this subject, and its first corollary is that the widest possible realm of activity must be preserved for private enterprise. Freedom of the person against arbitrary arrest or detention or condemnation, freedom of migration, freedom of business and pursuits, security of property, freedom of thought, of expression and of conscience, and exclusion of government from the realm of private affairs, — these are the most significant products of American constitutional history. And the perfection of this system of individual liberty or civil liberty, as a constitutional realm of immunity against governmental power, and as a realm of constitutional rights protected by the courts against encroachments from any and every quarter, enjoyed by every person and clearly distinguished from political functions, — this is, as I have just said more briefly, one of the main lines of approach to the ideal which our history is striving to realize. To the student of our history nothing is clearer than this. It is apparent in all of our great constitutional documents, and in all of the great events of our internal progress.

Since the formation of the constitution, 1781, two great obstacles have stood in the way of a continuous and an easy development of the great principle of individual liberty. One has been largely overcome; with the other we are to-day face to face. The first was the doctrine of the sovereignty of the

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separate "States" in the Union. One of the chief corollaries of this proposition was that citizenship and allegiance were of, and to, the "State" alone, and that, therefore, the separate "States" were the definers and defenders of individual liberty. Not the consciousness of the nation but the interest of the locality was held to be the basis of the liberty of the individual. This was directly in the teeth of the great principle of the eighteenth-century philosophy — the philosophy of the revolutions, *viz.*, that civil liberty is the right of man, is cosmopolitan.

While the revolutionary view was extreme and radical, it yet contained within it the impulse which was destined to overcome the particularism of the conditions of 1781, and to lead ultimately to the true view, that civil liberty is national in its character, and must be defined by the national consciousness and defended by national power. The constitution of 1787 made a prodigious stride in this direction. It defined and guaranteed individual liberty at about every point against the ordinary powers of the central government; it defined and protected it at many points against the states themselves; and it established an independent national judiciary, furnished with the power to nullify those acts both of the central government and of the states which should violate or impair the constitutional rights and immunities of the individual.

For seventy years this sufficed; but during the last thirty years of that period the view was developed in one section of the union that the nation must define and defend individual liberty against the states at every essential point; while in the other section the determination to place the narrowest possible construction upon the guarantees of the nation against the states became the settled rule of conduct.

The national view of the subject was in the true line of the world's political progress. For in the trial of arms that came, it won; and tortuous and faint as the line of development towards the ideal often appears, still it may be said, in a large sense, that in the world's history the ideal of to-day is the battle-cry of to-morrow and the note of victory the day

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after. The first constitutional act of the nation after the close of the great struggle was to secure the personal liberty of every individual, not only against the power of the central government, but also and especially against the powers of the states; and the second was to extend the protection of the national judiciary over individual liberty at every essential point and in behalf of every person within the whole country. With this great step in advance, we have at last come in sight of the goal towards which we are moving, and it is the ideal which a sound political philosophy approves, *viz.*, the nationalization of individual liberty, its protection by an independent, national, unpolitical judiciary, backed by the whole power of the government, and its enjoyment by every person within the land.

I do not think it need be feared that the doctrine of the sovereignty of the several states will again seriously threaten this development. The civil war fixed the principle of our polity, that the nation alone is the sovereign, that the nation alone is the real state. We do still hear, indeed, the phrase "sovereignty of the states within their respective spheres"; but this only signifies that we have not yet invented the new forms of expression to fit the new order of things. All that we can now mean by the old phrase is: that realm of autonomy reserved to the states by the sovereignty of the nation declared through the constitution.

The present menace to individual liberty proceeds from a different quarter. I say menace, rather than danger; for I do not feel that it amounts to a danger. I refer to the so-called socialistic movements in certain parts of our country, among certain classes of the population. More than twenty years ago, while a student at the German universities, I first heard the socialistic program expounded, and I then thanked Providence that my home was in a land where such vicious nonsense could never, as I supposed, gain a lodgment: for to an American, accustomed to consider government as the agent of the people, rather than as the father of the people; accustomed to consider the freedom of individual enterprise and the security of property as the chief sources of all prosperity; and accus-

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tomed to see this realm of individual liberty protected by the constitution and the independent, unpolitical judiciary against the powers of the government itself,—the doctrines of socialism, which advocated the capture of the government by the masses, through an indiscriminate suffrage, and its use for the distribution of the wealth of the classes, or for conducting or controlling business enterprises, did appear the height of folly and of moral turpitude.

I have had reason to fear since then that my estimate of my country's wisdom and honesty was somewhat optimistic. I forgot for the moment the immense immigration into our country of that very element of Europe's population to which such propositions appeal. I forgot the corrupting influence of the socialistic teachings at many of the German universities upon the American students attending them, who were destined to occupy professorships of political economy in America, and to make a propaganda of these foreign notions as to the paternal character of government. And I forgot that the experiences of the war, which had nationalized our institutions, had also accustomed our own people to the expansion of governmental powers at the will of the government itself, and then to the use of these increased powers for the accomplishment of ends largely private in their character.

Of these three contributory elements in the production of a socialistic movement towards paternalism in government, *i.e.*, towards the impairment, if not the destruction, of our system of individual liberty under the protection of the constitution and the courts, the first and the third are well understood, and will doubtless be brought speedily under the control of the historic American spirit, unless the more occult and corrupting influences contained in the second shall delay this result. I am willing to concede that there is no nationality in philology and mathematics; but political science and political economy, to be of any service whatsoever, must be closely adapted to national circumstances and traditions. The young professors, filled with European culture, are prone to forget this. They are usually much better acquainted with the history and the conditions of

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Europe than with those of America. They are generally radical, idealistic, and possessed by zeal for reform. I trust I shall not be considered in what I say as aiming to discourage the spirit of true reform. On the contrary, I regard it as the leaven of civilization. And I hope, furthermore, that I shall not be understood as intending any disparagement of our enthusiastic young scholars, who have had the enterprise to transfer the culture of Europe to our own shores. I only wish to caution them and those whom they teach that their general tendency in political science and political economy is to follow too closely the European habit of looking to government for the solution of every social and economic question, instead of trusting, in the majority of cases, to individual liberty and enterprise and the freedom of contract, as our fathers taught us. I especially deprecate their readiness to admit governmental control and administration into that domain which has heretofore been regarded as secure to private occupation; and I am particularly repelled by their undervaluation of our system of private property in its relation to the civilization of the human race. When they speak of governmental interference, they call it state interference, seeming to forget that in our American system the state works both through liberty and through government; and they affirm that the great error of modern civilization is the elevation of the rights of property over human rights. It seems to have entirely escaped them that there are no rights *of* property, never have been, and never can be. There are rights *of* human beings *to* property. Such rights are, therefore, also human rights, and human rights of so high an order that men will risk life itself in their defense. Much of the reasoning of our socialistic professors is simply a juggling with words, unconscious in most cases, I believe. I have not the slightest fear that their instruction will prevent the development of our system of private property towards the more secure enjoyment by every individual of what he may legally acquire, or that it will procure any considerable increase of property-holding power by government, or that it will cause the enactment of any essential restrictions upon

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existing rights in the acquirement and disposition of property; but it may interrupt that development of our system by throwing obstacles in its way, whose removal may require the application of force. It may give to the ignorant and conscienceless the moral encouragement that may occasion internal strife and disorder, which always tend to develop the military side of government, and consequently to retard, at least, the development of individual liberty.

I do not, then, regard the ownership and administration by government of all the great enterprises which serve the public, as an element in the ideal of the American commonwealth. The American genius repels such a policy, and seeks to preserve so far as possible all forms of business for private pursuit; and when there is an ultimate and undeniable necessity for surrendering to government anything which has been conducted by individuals, it selects the most local organization with which to try the experiment.

Neither do I look for the destruction of the private associations and corporations into which our American society has become crystallized, and the absorption of their functions by government, as an element in the ideal of the American commonwealth. The freedom of association is an essential part of civil liberty, though it is secondary to those rights which are more strictly individual, and, in a true political philosophy, is subject in larger degree than those rights to the legislative and administrative powers of government, as well as to the power of the courts. This is especially true when the organizations springing from its exercise are endowed by the government with corporate powers. But in the ideal American commonwealth the freedom of association, incorporate and unincorporate, must continue to exist under full constitutional guaranty, protected by the courts, of all of those rights and immunities which are of a purely private character. Especially must the properties of associations be secured against confiscation by government, whether direct or through unjust taxation or unfair regulations.

I argue for the maintenance of the freedom of association in

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the ideal American system not only because the absorption by government of all enterprises which transcend the powers of single individuals would so expand the powers of government as to make it highly paternal, if not absolute, but also because the exercise of such freedom produces a vast number of the most efficient training schools which the wit of man has ever devised for the development of administrative talent among the people. The holding of governmental office itself will not effect this result to any such extent, for the reason that but few governmental offices require or permit such discretion and responsibility in the incumbents as is employed in the management of associations. I firmly believe that, outside of England, no country in the civilized world contains among its citizens, in the proportion of population, one-fourth as many persons highly qualified for the conduct and administration of affairs as are to be found in the United States; and I do not hesitate to attribute this fact in large degree to our principle of the freedom of association and to the fact that great enterprises not clearly political are managed through private combinations instead of by government.

On the other hand, it is certainly true that associations which may have a public purpose and may be invested by the state with the power to compel without agreement with the party suffering compulsion, cannot be so easily controlled by the courts as can individuals; and that, therefore, the state must, in good political philosophy, invest the government with legislative and administrative as well as judicial powers over corporations. But such powers should be distinctly limited. When an association commits no act violative of the public peace, makes no attempt to exercise a power to compel, except through the forms of law administered by the courts, does not seek to deny the constitutional and legal rights of any of its members, and, on the other hand, executes faithfully and in the due forms of law any governmental power which may have been conferred upon it by law, and fulfills the public purpose which its franchise, if it have one, may have imposed upon it,—its existence, its freedom

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of action and the security of its properties should be guaranteed to it by the constitution and protected by the courts. If the state, *i.e.*, the nation, should ever see fit to assume for government the ownership and administration or the entire control of any or all business enterprises transcending the capacity and powers of single individuals, it should do it through constitutional law, and not through ordinary legislative enactments. Such a policy is too fundamental to be dealt with primarily anywhere but in the constitution. As I have said, I do not think the ideal American commonwealth requires or will ever adopt such a policy.

There is no question in my mind that in some respects the powers of government have been already exaggerated in respect to incorporate associations and private corporations, and that this exaggeration has had most deleterious results in our politics, our finances and our morals. The corporations have now, in most instances, to pay individual legislators for powers and privileges, whether proper or improper, whether advantageous or disadvantageous to the public, and whether logically within the constitutional rights of the corporation or not. And by governmental interference, in behalf, as it is said, of the public, the directors of corporations have been relieved from their sense of responsibility to the other members of the corporation, and have come to regard their positions, not as trusteeships, but as inside places affording superior opportunities which they may exploit at the expense of the *bona-fide* stockholders, largely through the financial confusion created by uncertain and unfriendly legislation. Here are real dangers to our American commonwealth which can be overcome only by so restricting the powers of government in respect to corporations as to preserve what is naturally private right in them from governmental interference.

Where associations threaten individual liberty or the public security, they must come under governmental supervision and restraint, but we must take care how we allow government to lay its hands upon them under the plea or pretext of promoting the general welfare; for this plea is and always has been the

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broad avenue of approach to the inner temple of all liberty. It is true that government must, in all its activities, always have in view the promotion of the general welfare, but it must not be allowed so to interpret the demands of this welfare as to violate or impair the constitutional rights of individuals or of private associations of individuals. The people, through the constitution, have determined that a broad realm of individual liberty is indispensable to the general welfare, and have empowered the independent unpolitical judiciary to protect this realm against all merely governmental notions of welfare. This is the unique product of American constitutional history; and if we listen to the wisdom of history, which is the unfolding of the divine plan, if there be any divine plan in human affairs, we shall steadily resist the advance of government upon the sphere of constitutional civil liberty, and prevent that destruction or weakening of its judicial supports which is demanded by the socialistic propaganda. Our steady effort must be for the more perfect development of that branch of our constitutional law which maintains individual liberty; for the individual soul is, in ultimate resolution, the basis and the object of all our civilization and culture. Liberty and government have one and the same end, and what can be accomplished by liberty must be left untouched by government in the ideal American commonwealth. Thus, man may become a law unto himself, and have free opportunity for the full development of the ideals implanted by his Maker in his moral and intellectual nature.

In the order of my treatment I have placed government after sovereignty and liberty. It must be remembered, however, that this is a logical and not a chronological order. Chronologically, the principles both of sovereignty and of liberty receive conscious treatment and application subsequent to the establishment of government. The existence of government is the indispensable condition for the development of sovereignty and liberty.

The American commonwealth has now, and will continue to have in its ideal perfection, a science of government which is

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its own, though well adapted for general imitation as mankind reaches the higher stages of civilization. The first element in it is its principle of federalism. There is no ground, indeed, for the claim that the North Americans originated the dual system of government. If that is to be credited to any particular people, we must go as far back, at least, as to the Greeks. But that particular form of dual government which I term federalism is certainly an American product. The systems which other peoples have originated or developed have been examples rather of confederated states than of national states with dual governments. In fact, our own system began, so far as written constitutional law is concerned, as a confederacy of states — of sovereignties. The language of the constitution of 1787 may be construed, and I think should be construed, as changing the confederacy of sovereignties into a national state with federal government, *i.e.*, with a system of government in which the powers are distributed by the national constitution either expressly or impliedly, specifically or generally, between two sets of governmental organs, largely independent of each other; yet, on the other hand, it may be construed, with much show of logic, as having simply substituted the peoples of the several states for their legislatures, *i.e.*, for the organic bodies in the confederate constitution of 1781. A very large portion of the population of the whole country — at one time and for a long period a large majority of that population — held this latter view. Even now it is possibly held by a majority of our people. But I think this theory is now wholly erroneous. It will not fit the facts of our history since 1860. Those facts can be explained only upon the theory that federalism with us now means a national state with two sets of governmental organs largely independent of each other, but each deriving its powers and authorities ultimately from a common source, *viz.*, the sovereignty of the nation. And this conception of a governmental system I claim to be purely an American product. It is, however, the true ideal of federalism, and all other nations must, I believe, ultimately come to it. It reconciles the imperialism of the Romans, the local autonomy of the Greeks

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and the individual liberty of the Teutons, and preserves what is genuine and enduring in each. It is, therefore, perfectly adapted for universal application.

But is federalism, even in this form, the ideal principle? Will it not give way to complete centralization of government, as nationality and the national consciousness of rights and wrongs, interests and policies, become perfected and uniform? I think there is no question that such a development of the national consciousness will require uniformity of law, and will therefore probably favor centralization in legislation, and that it will produce centralization in ultimate judicial interpretation; but it is not at all necessary that it should centralize the execution of all law and justice. A large administrative power, containing a large ordinance-making power and a large police power, may in the most completely developed national state be properly left to the localities and be secured to them by the national constitution. It seems to me that this is the ideal of the future. It is the ideal towards which our own history has been surely advancing, and it is the ideal towards which the states with purely centralized government are also now beginning to show inclination. In the attainment of this ideal, however, our American commonwealth stands in the forefront of advantage. It has worked through its period of confederation, without having been obliged to have recourse to a permanent artificial centralization in government, and it has worked out the distinction between sovereignty and government, and has organized its sovereignty distinct from its governmental system. No other nation has accomplished these things. Every other nation, therefore, is confronted by a host of difficulties which the American commonwealth has already successfully overcome. These are my reasons for claiming that here again the American commonwealth will appear as the bearer of the ideal for the world.

The second distinctive characteristic of the American governmental system is its complete emancipation from the principle of hereditary right in the holding of office or mandate; its complete separation, therefore, of public powers from property;

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and its consequent treatment of public powers as public trusts in the hands of those who hold them. It needs no argument to prove that this is the ideal principle of government in respect to tenure. Not that all those who hold governmental powers by hereditary tenure use them as property; there are many shining examples of emperors, kings, princes and lords who have clearly distinguished between their public powers and their rights of property and have administered the former most conscientiously as public trusts. Nor, on the other hand, do I claim that all elected legislators and officials make this distinction and conscientiously apply it as a rule of conduct. My contention is simply that the elective principle *per se* rests upon this distinction and tends naturally to develop it, while the hereditary principle sprang from the confounding of public powers with the rights of property, and tends to perpetuate this confusion. To one who reads closely modern history, there is no question that the civilized world is drifting away from the ideas of hereditary government, and that consequently it will be obliged to embrace those of elective government. There is no other alternative. And it is to the American commonwealth that all the nations must turn for the lessons of experience. There is no doubt that we ourselves have much yet to do in the perfection of our law of suffrage and elections. The purity of elections is now the most important practical question of our political science. Its resolution is neither simple nor easy. But a comparison of our law of elections with the systems of other countries will reveal to the most cursory examination the fact that it is, as a whole, many stages in advance of them all. I cannot in this paper undertake to trace the line of development which I think the American system of election will follow in approaching its ideal. I will only say that it seems to me that that ideal must be a national law under local administration, and that the purity of elections depends more upon a proper principle of suffrage than upon ingenious machinery for the casting and counting of ballots. There is not the slightest doubt in my own mind that our prodigality with the suffrage has been the chief source of the

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corruption of our elections. We must begin with the cause if we would remove the effect. But the signs are unmistakable that we are solving this question, first for ourselves, and then for the rest of mankind; for we are entirely emancipated from the conflict between the hereditary and the elective principles, and are all, therefore, sincerely interested in the development of the elective system towards its ideal perfection.

The third distinguishing characteristic of the governmental system of the American commonwealth is the constitutional independence and coördination of the departments — the "check and balance system," as it is commonly termed. Anglophiles in political science criticise this principle as the temporary expedient of a crude political society, and to within the last decade the criticism has been generally accepted as correct. Of course if it be correct, the American commonwealth is not following the ideal lines of development in this respect; for there is nothing more certain in American history than the facts that the independence of the executive was produced in the progress from the Continental and Confederate systems to the Federal system of 1787, and that this independence, from being somewhat timidly asserted for the first forty years of our history under the present constitution, has become the firmly established practice of our government. Shall we be obliged to retrace our steps in this respect in order to put ourselves upon the ideal line of development? I think not. I think that we are upon the right line, and that those nations which have developed parliamentary government are beginning to feel, as suffrage has become more extended, the necessity of greater executive independence. Parliamentary government, *i.e.*, government in which the other departments are subject to legislative control, becomes intensely radical under universal suffrage, and will remain so until the character of the masses becomes so perfect as to make the form of government very nearly a matter of indifference. There is no doubt that we sometimes feel embarrassment from a conflict of opinion between the independent executive and the legislature, but this embarrassment must generally result in the adoption of the

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more conservative course, which is far less dangerous than the course of radical experimentation. Means for a better understanding between the executive and the legislature we may indeed discover and apply, but these need in no wise impair the independence of the executive.

I think it far more supposable that parliamentary government, than that the independent executive, is a temporary expedient, — an expedient for avoiding the embarrassments of dealing with an hereditary irresponsible executive. When, in states that now have parliamentary government, the hereditary irresponsible executive shall give way to the elected responsible president, holding for a moderate term of years and reëntering again the ranks of private citizenship, — and this, I cannot but think, is to be the final result in all Teutonic systems, — I have no question that the parliamentary control of the executive will be at least greatly modified. I think we have strong reason to feel that we are on ideal lines in this respect, and that the world will be obliged to come at last upon this point also to the lessons of our experience.

I shall not undertake to discuss the many projects which have been advanced for perfecting the relation between the independent executive and the legislature. Most of them would tend, if adopted, either to the strengthening or the weakening of that independence, while the object should be simply the attainment of a better understanding between the two departments and a clearer distinction of the functions which naturally and constitutionally belong to each. I will, however, make a single suggestion, which appears to me to contain a principle clearly necessary to the further development of the relation between the executive and the legislature towards the ideal of the American commonwealth. It is this: that the respective ministers or secretaries of the executive should have membership in those legislative committees which originate the projects of law for the ways and means of administration. The ministers are certainly to be presumed to know best what is necessary and advantageous in regard to such measures, and it cannot be considered that their advice or even vote in com-

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mittee would impair the independence of the legislature, since the report of the committee is only a recommendation, which the legislative body may adopt or reject at its own discretion.

But the feature *par excellence* of the American governmental system is the constitutional, independent, unpolitical judiciary, and the supremacy of the judiciary over the other departments in all cases where private rights are concerned. The constitutional judiciary exists in no other great state of the civilized world. Everywhere else the judicial system is a creature of statute law, and is therefore dependent for its continued existence upon legislative permission. Everywhere else the function of the judiciary is to interpret and apply the acts of the legislature, but in no case to nullify those acts.

I consider our judicial system the most momentous product of modern political science. Upon it far more than upon anything else depends the permanent existence of republican government: for elective government must be party government — majority government; and unless the domain of individual liberty is protected by an independent unpolitical department, such government degenerates first into majority absolutism and then into Cæsarism. Where no realm of individual liberty is reserved and secured against governmental encroachment, the people will always ultimately prefer hereditary to elective government.

There is no part of our system in regard to which I feel so surely that we are following an ideal development as I do in regard to our judicial institutions. There is no part in regard to which I am so certain that we are bound to be the example for the world; for individual liberty is, in idea, the liberty of man, whatever his clime, country or nationality. Many of Europe's most illustrious jurists and publicists are already claiming that the judiciaries of Europe interpret and apply not simply statute law and common custom, but law in its broadest sense, — law contained in the constitution as well as in statutes and customs, — and that the superior law, the law in the constitution, must take precedence of statutes and customs. If there be, in the opinion of the judge, conflict between

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them, the latter must give way to the former. This is declared to be the necessary logic of jurisprudence. And indeed it is; but the Europeans should write it in their constitutions, as the Americans did more than a century ago. The world is certainly moving in our train in this respect.

I regret to say and to feel, however, that there are evidences that we ourselves do not fully appreciate the vast importance of our judicial system to our liberty and our prosperity. We may pass by, as entirely unworthy of notice, the wild utterances of the few radicals who talk about the abolition of the courts. I have no fear that such an idea will ever be seriously considered by any sane community. The things to which I refer are the adoption of the principle of a term of years for the judges in most of the local judicial systems, and the entirely inadequate pay of the judges in both the national and the local systems. Both of these facts impair judicial independence and impartiality. No judge should be so circumstanced as to have to think of anybody's favor as a condition of the continuance of his office; and no judge should be obliged to seek sources of income for a reasonable support and provision for his family outside of the salary of his office. These are two of the most fundamental principles of popular liberty. Especially should the masses insist upon them. They are indispensable to the attainment of impartial justice by the masses. The dependent judge is the tool of the rich and the unscrupulous. The people must never allow themselves to be deceived by the politicians upon this point, but should always have in mind the fact that terms of years, especially short terms, and small salaries do not tend to produce judges devoted to the liberties of the people, or to secure the economical administration of justice, but rather do tend to make a party judiciary and a corrupt judiciary—a body of judges depending upon party favor for their continuance in office, and upon personal favoritism for the necessary supplement to their salaries. Such a system certainly repels great intellect and high virtue from the judicial office, offers temptations of a most corrupting character to the judges, and is hostile to even-handed justice. The tenure by

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popular election of the judges, now adopted by most of the states, is also a disturbing element to judicial purity and competence, though not so serious in character as the term of years and the inadequate pay. Dickering for office, though it be indulged in but once in a lifetime, is degrading to a judge; and dickering with the party caucus and with the electors at the polls is more degrading than soliciting appointment from the executive. When now the tenure by popular election is connected with the term of years and the inadequate salary, as is the case in the majority of our states, the judicial system is made subject to conditions most hurtful to its ideal development. I do not forget the argument that the elective tenure makes the judge independent of the executive power in the *origin* of the tenure. I simply do not regard this consideration as of any practical value. The judicial independence rests upon the security of the tenure once established against *termination*, rather than upon the manner of its *origin*.

Most fortunately, the national judicial system has preserved the line of true progress. With its principles of tenure by executive appointment and term of good behavior, and with the now well-established interpretation of the phrase "good behavior," as presumed until conviction by process of impeachment for crime or misdemeanor as understood in our ordinary law, we have now only to make the salaries such as to command the highest juristic intelligence and the most exalted virtue and protect them against undue temptation, and we shall have the ideal judicial system for the American commonwealth. Such a system will finally transform, by its example, the local judiciaries in America; and then, with its principle of the supremacy of the judiciary over the other departments of government in the definition and defense of private rights, will lead the course of juristic development everywhere.

And so I return, in conclusion, to the propositions with which I started out, *viz.*, that the American commonwealth is already based upon ideal principles and has advanced many stages in an ideal development; that it has only to be freed from some

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crudities and excrescences, and to pursue steadily the general course towards which its history points, in order to reach the perfection of its ideal; that, therefore, we need no revolution of our system, which would in fact drive us from the line which leads to the attainment of our ideal; and that we are compelled to regard those who should favor and advise such a revolution as the enemies in principle of the American republic and of the political civilization of the world.

JOHN W. BURGESS.

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THE ADOPTION OF THE PENNSYLVANIA CONSTITUTION OF 1776.

THE long and fierce struggle of the so-called "Constitutional" and "Republican" parties in Pennsylvania over the state constitution framed in 1776 was greatly confused and complicated by the old party divisions between the eastern and the western counties, by the proprietary controversy of 1755–65, by the ethnic and religious divisions of the colony, and by the movement for national independence. It is therefore necessary to trace certain events prior to the apparent beginnings of the constitutional struggle, in order properly to understand it.

The Pennsylvania Assembly, elected in October, 1773, was controlled by the "eastern" party — a coalition of the Quaker, German and commercial interests — led by Joseph Galloway. The qualified franchise under which the assembly was elected may have somewhat lessened its representative quality, but the majority unquestionably acted as the moderate elements of the community wished, in deprecating all violent or illegal action in the controversy with Great Britain. When, therefore, the letter of the Massachusetts committee of correspondence, announcing the passage of the Boston Port Bill, reached Philadelphia, May 19, 1774, the "popular" or "violent" party recognized that other means than the action of the assembly must be employed to give the colony even the semblance of "supporting Massachusetts." It was necessary, however, to make this support a moderate one; for any extreme action might fail of acceptance even from the mass-meeting that the "popular" party planned to employ as the vehicle for promulgating the sentiments of Pennsylvania. A plan of action was arranged among the leaders of the "popular" party, Dickinson, Thomson, Reed and Mifflin.[1]

[1] See Stillé, Life of Dickinson, 341; New York Historical Society Collections, 219; Diary of Christopher Marshall, 1.

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It was judged proper to call a meeting of the principal inhabitants to communicate to them the contents of the Letter and gain their concurrence in the measures that were necessary to be taken. As the Quakers, who were principled against war, saw the storm gathering, and therefore wished to keep aloof from danger, were industriously employed to prevent anything being done which might involve Pennsylvania farther in the dispute, and as it was apparent that for this purpose their whole force would be collected at the ensuing meeting, it was necessary to advise means so to counteract their designs as to carry the measures proposed and yet prevent a disunion, and thus, if possible, bring Pennsylvania's whole force undivided to make common cause with Boston. . . . To accomplish this it was agreed that T[homson], who was represented as a rash man, should press for an immediate declaration in favor of Boston, and get some of his friends to support him in the measure; that Mr. D[ickinson] should oppose and press for moderate measures, and thus by an apparent dispute prevent a farther opposition and carry the point agreed on. . . . The meeting was held in the Long Room. The company was large, and the room exceedingly crowded. The Letter received from Boston was read, after which Reed addressed the Assembly with temper, moderation, but in pathetic terms. Mifflin spoke next, and with more warmth and fire. Thomson succeeded, and pressed for an immediate declaration in favor of Boston, and making common cause with her; . . . Dickinson then addressed the company. . . . After he had finished T[homson] . . . simply moved a question, that an answer should be returned to the Letter from Boston; this was put and carried. He moved for a committee to write an answer; this was agreed to, and two lists were immediately made out and handed to the Chair. The clamor was then renewed on which list a vote should be taken. At length it was proposed that both lists should be considered as one, and compose the comtt. This was agreed to, and the company broke up in tolerable good humor, both thinking they had in part carried their point. . . .[1]

Even after this wire-pulling and address, the committee appointed by the meeting to write to Boston was so moderate in feeling that it recommended payment for the tea destroyed, and thus proved only a damper on the patriots of Massachusetts. But the popular party was not content with this moderate action. The project for a general congress was

[1] Stillé, Dickinson, 107 and 342.

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already a matter of discussion, and the extreme Whigs saw in it their one hope, since they could expect no support from the assembly, of voicing their wishes in some more potent form than the vote of a meeting.[1] Another mass-meeting was therefore called, and "though the Quakers had an aversion to town meetings, and always opposed them,"[2] it was managed that they gave their consent and assisted in preparing the business, yet with so much doubt of the leaders of the movement as to insist that the speakers should submit their speeches in writing before the meeting.[3] Nearly eight thousand people were said to have attended, and resolutions declaring the Boston Port Bill unconstitutional were unanimously adopted.[4] An address to the governor was also voted,[5] asking him to convene the assembly, "in order to prevent further divisions in the city, and to convince the pacific that it was not the intention of the warm spirits to involve the province in the dispute without the consent of the representatives of the people." The governor replied "that he could not call the assembly for the purposes mentioned, and that he was sure the gentlemen did not expect . . . that he would." "The answer was such as was expected . . . and was far from disagreeable to the advocates of America."[6]

Promptly upon the governor's refusal to convoke the assembly, a call was issued to the county committees of correspondence[7] throughout the colony, to name delegates to attend

[1] "The reason of their . . . determination for a [continental congress] was their not having a sufficient confidence in the members who composed the House of Assembly, and more particularly in the speaker [Galloway], whose influence was great." — Thomson.

[2] Stillé, Dickinson, 343.

[3] Charles Thomson's Narrative. Stillé's Dickinson, 344.

[4] New York Historical Society Collections, 1878, 223; Reed's Joseph Reed, I, 69.

[5] Diary of Christopher Marshall, May 8, 1774, p. 6.

[6] Charles Thomson's Narrative. Stillé's Dickinson, 344.

[7] The origin of these committees was as follows: "Under the Association which was formed in opposition to the Revenue Laws of 1767, and which lasted for upwards of two years, Committees were established not only in the Capitals of every Province, but also in most of the country towns and subordinate districts. In the commencement of the present opposition these Committees had been re-

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a "Provincial Conference" in Philadelphia, July 15. The governor at once realized his mistake in giving popular feeling only an extra-constitutional body to speak through, and, using an Indian outbreak as an excuse, he issued warrants summoning the assembly to meet July 18, hoping thus to forestall the conference. The popular leaders, however, "had no confidence in the members of the assembly, who were known to be under the influence of Galloway and his party,"[1] and they therefore carried out their plan. When the conference met, it adopted a series of resolutions framed by Dickinson,[2] and "instructions" to their representatives in the assembly "requesting" them to appoint delegates to attend a congress of deputies from the several colonies; and to reënforce this "request," it was announced that if the assembly failed to accede, the conference would name delegates itself. The assembly was further "instructed" to demand

a renunciation on the part of Great Britain, of all powers under the statute of the 25 of Henry the Eighth, chapter the 2d — of all powers of internal legislation — of imposing taxes or duties internal or external — and of regulating trade, except with respect to any new articles of commerce, which the colonies may hereafter raise, as silk, wine, &c., reserving the right to carry these from any one colony to another — a repeal of all statutes for quartering troops in the colonies, or subjecting them to any expence on account of such troops — of all statutes imposing duties to be paid in the colonies, that were passed at the accession of his present Majesty, or before this time; which ever shall be judged most advisable — of the statutes giving the courts of admiralty in the colonies greater power than courts of admiralty have in England — of the statutes of the 5th of George the Second, chapter the 22d, and of the 23d of George the

vised, extended and reduced to system; so that when any intelligence of importance, which it was necessary the people at large should be informed of, reached the Capital, it was immediately dispatched to the County Committees and by them forwarded to the Committees of the districts, who disseminated it to the whole body of the people." Charles Thomson, in New York Historical Society Collections for 1878, 218.

[1] Charles Thomson's Narrative. Stillé's Dickinson, 345.

[2] Printed as An Essay on the Constitutional Power of Great Britain over the Colonies . . . (Philadelphia, 1774), as well as in the Journal of the House of Representatives of Pennsylvania, . . . (Philadelphia, 1782).

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Second, chapter the 29th — of the statutes for shutting up the port of Boston — and of every other statute particularly affecting the province of Massachusetts Bay, passed in the last session of Parliament.

These resolutions were laid before the assembly July 20.[1] Thomson states[2] that that body would not have appointed delegates but for the knowledge that the conference would name them if the assembly failed to do so. Save for this knowledge it is hardly possible that Galloway would have disobeyed the ministerial instructions from England to discourage the congress. Seeing that the congress was a certainty, he endeavored to turn it to the advantage of the conservative party by making it a conservative body. He promptly named five of the assembly's most conservative members as delegates to congress, thus defeating the wishes of the popular party, who were allowed only one delegate; and discarding the "instructions" of the conference, he secured the adoption of "instructions" drawn by himself,[3] binding the deputies to "avoid everything indecent and disrespectful to the mother state."[4]

Neither the delegation nor the instructions seem to have been satisfactory to the people, and their unpopularity was increased by the "cold" conduct of the Pennsylvania deputies in the congress which met September 5. This feeling became so strong during the sitting of congress that at the annual election for assembly in October eight old members were defeated by candidates of the popular party.

Mr. Dickinson was chosen almost unanimously a representative of the county. The broad-brims began an opposition to Mr. Mifflin,

[1] Votes and Proceedings, VI, 519.

[2] Charles Thomson's Narrative. Stillé's Dickinson, 346.

[3] "I went to Congress at the earnest solicitation of the Assembly of Pennsylvania. I refused to go unless they would send with me, as the rule of my conduct, instructions agreeable to my own mind; — they suffered me to draw up those instructions; — they were briefly to state the rights and the grievances of America, and to propose a plan of amicable accommodation of the differences between Great-Britain and the Colonies, and of a perpetual union; I speak now from the records of Pennsylvania, where these instructions are. Upon this ground, and with a heart full of loyalty to my Sovereign, I went into Congress, and from that loyalty I never deviated in the least." Examination of Joseph Galloway, p. 47.

[4] Votes and Proceedings, VI, 520.

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because he was too warm in the cause. This instantly alarmed the friends of liberty, and ended in the election of Mr. Mifflin by eleven hundred votes of thirteen, and in the election of our secretary, Mr. Charles Thomson, to be burgess with him. This is considered here as a most complete and decisive victory in favor of the American cause. And it is said it will change the balance of the legislature against Mr. Galloway, who has been supposed to sit on the skirts of the American advocates.[1]

Nothing better shows the seriousness of this conservative defeat than the almost immediate election of Dickinson to the general congress. For years, in spite of his personal reputation, he had been kept out of the assembly by the influence of Galloway, who had both party and personal reasons for opposing him. Yet now so strongly ran the current, that Galloway dared not oppose Dickinson's election, and the vote in the assembly was unanimous in adding him to the delegation. The joy of the "patriots" in the congress at this change in Pennsylvania towards "the spirit and principles of liberty" was shown by the way they heaped honors upon Dickinson. The committees of congress had already been appointed, but a new one was created, to prepare an address to the people of Quebec, and Dickinson was selected to draft the paper; moreover, when the draft of the Petition to the King was disapproved, he was added to the committee that had it in charge, to reshape it. Just so much as they honored him, so reasoned the "extreme" delegates, did they injure Galloway, and the popular party both in and out of congress turned to and flattered Dickinson, as the only man able to counteract the influence of Galloway and the "cold" conservatism of Pennsylvania.

For the moment the popular party was paramount in the assembly and in the city. Everything Galloway had done in the congress was, despite the secrecy of its proceedings, whispered abroad to injure him. A mob twice threatened his house, and a halter was left at his door. But if Galloway personally had lost much of his popularity, the natural conservatism of the colony was not utterly destroyed. When the enthusiasm was

[1] John Adams, Oct. 7, 1774. Familiar Letters, 45.

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strongest, an attempt to obtain a vote of the assembly to enforce the resolves of the congress was found hopeless. By framing the resolution in the most general terms a unanimous vote was secured, however, "approving"[1] congress' proceedings. Galloway, unyielding even to this, yet not daring to record an adverse vote, absented himself till the resolution was put out of the way.[2]

Disappointed in the action of the assembly, the popular party once more resorted to extra-constitutional methods. A "Provincial Convention" was summoned, which met at Philadelphia, February 18, 1775, and adopted a series of resolutions drawn by Dickinson, which may be regarded as indicating what the popular party had attempted to carry in the assembly. In these, the action of the congress was warmly extolled, and support was pledged to the "association" that had been established; the commercial interest was both cajoled and threatened; and though the conservatives had hitherto been "successful in baffling all attempts" of the violent party to prevail on the people to prepare for war with the mother country, so that the convention did not dare to recommend arming, yet a resolution was adopted looking to the manufacture or procurement of saltpetre and gunpowder as "largely as possible," the obvious purpose being veiled by an absurd reference to the Indian trade.[3]

Galloway was not prepared to yield the fight without one more struggle, and in the assembly he endeavored to carry a resolution to petition the king independently of the other colonies. As this was looked upon by the popular party as equivalent to a desertion by Pennsylvania of her sister colonies, it precipitated the fiercest contest yet fought in the assembly. The popular party first attempted to admit the public to the debate, intending to pack the galleries with their own partisans. Galloway succeeded in defeating this, and he had

[1] Even this was more than Governor Penn believed the assembly would vote, and it caused him "great surprise." See Reed's Joseph Reed, I, 90.

[2] Proceedings of the Convention. . . . Philadelphia: 1775.

[3] Votes and Proceedings, VI, 552.

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actually obtained a partial vote in favor of his measures, when news reached Philadelphia of the "restraining acts" and harsh measures proposed by the British ministry.[1] Instantly public opinion reacted, Dickinson's measures were voted by the assembly, and Galloway, finding himself "alone and unsupported among a set of men every one of whom had approved of the measures [he] was censuring," left the assembly, refused an election to the Continental Congress, and withdrew to his country-seat. Here Franklin, his closest friend, though now one of the popular party, sought him by desire of the congress, and endeavored to win him to the cause, but he refused; and from that time he ceased to be a factor in the politics of the colony.[2]

Galloway's withdrawal left Dickinson for the moment master of the situation. Though he had hitherto sided with the popular party, yet he had much in common with its foes; for he was a natural conservative, and a Quaker in religion. His affiliation with the extremists seems to have been due to the control Galloway had hitherto exerted over the conservatives, which, with the personal antipathy between the two men, had forced Dickinson into the popular ranks. Even before Galloway had been pushed aside, the extremists "hoped for [Dickinson's] assistance, but were not sure how far he would go if matters came to an extremity," while "the Quakers courted and seemed to depend on him." Personally popular, with an unblemished career, independently rich, and now trusted and followed by both parties of the colony, John Dickinson, in the spring of 1775, apparently held the destinies of Pennsylvania in his own hands.

When the assembly met on May 1, 1775, the whole condition of affairs had been changed by the conflicts at Lexington and Concord. Pennsylvania had stood hitherto almost alone among the colonies in refusing to prepare for war, but now the Quaker-Moravian influence could no longer restrain the people.

[1] Examination of Joseph Galloway, 54.
[2] Charles Thomson, in Stillé's Dickinson, I, 342.
[3] New Jersey Archives, X, 573, 581.

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No sooner was the collision between the king's troops and the Massachusetts minute-men known than voluntary military "associations" for the defense of the colony and "the liberties of America" were formed throughout Pennsylvania.[1] So strongly ran the current that in Philadelphia alone, in barely six weeks, was seen the "wonderful phenomenon," as John Adams called it, of "a field day, on which three battalions of soldiers were reviewed, making full two thousand men. . . . All this has been accomplished in this city, since the 19th of April; so sudden a formation of an army never took place anywheres."[2] The enthusiasm of the movement was enormous. The most popular clergymen preached eloquent sermons to the "associators." The leading men of the province sought the command of companies or battalions. Dickinson himself was made colonel of the 1st battalion, and as such, commander-in-chief. In three months twenty thousand volunteers had enrolled themselves.[3]

Owing to this voluntary militia, Pennsylvania was able to respond to the requisition for eight battalions which Congress made upon it almost immediately after meeting, May 10, 1775, without embarrassing or alienating the sects opposed to warfare. But in the midst of the general arming the question

[1] "This day a number of the associators of the militia met in each of the wards of the city, to form themselves into suitable companies, and to chose their respective officers." Christopher Marshall's Diary, May 1, 1775, p. 22.

[2] John Adams, May 29, 1775. Familiar Letters, 59.

[3] These associators, though drawn almost wholly from the Whigs, nevertheless had another element among them, as is shown by the following quotations: —

"Last Thursday & the preceding Tuesday I appeared in Battalion in my uniform, as a private man in Captn. Shees company. I have no opinion that this association will be very useful in defending the City: as they have refused to be bound by any Articles, & have no subordination. My Inducement principally to join them is; that a man is suspected who does not; & I chuse to have a Musket on my shoulders, to be on a par with them; & I believe discreet people mixing with them may keep them in Order." Diary of James Allen, Oct. 14, 1775. *Penn. Magazine*, IX, 186.

"It's admirable to see the alteration of the Tory class in this place, since the account of the engagement in New England. Their language is quite softened, and many of them have so far renounced their former sentiments as that they have taken up arms, and are joined in the association." Christopher Marshall's Diary, May 1, 1775, p. 22.

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could not long be kept out of the assembly; for the popular party, who looked upon the Quakers and Germans as Tories or neutrals, saw in it a weapon to be employed not merely against Great Britain, but against the believers in "non-resistance." Even before it was known that Congress would call for troops, a petition from the "committee of the city and liberties of Philadelphia" had been presented to the assembly,[1] praying that the colony should be put in a state of self-defense; and this was quickly followed by a second, begging that the associators should receive pay, and that the non-associators should be compelled to contribute to this expense — a suggestion that was at once echoed in another petition from the officers of the associators. The Quakers, however, were as scrupulous of paying taxes for war as of fighting, and daring neither to refuse nor to yield, the assembly hit upon the device of issuing bills of credit to pay the associators. A bill for this purpose was passed, but only to be vetoed by the governor. Surrounded by difficulties, the assembly, guided by Dickinson, threw legality to the winds. It appointed a Committee of Safety [2] and authorized it to issue bills of credit, thus creating an absolutely illegal body, with almost indefinite executive authority, and making it all-powerful through the control given to it over the associators. Finally, "the house, taking into consideration that many of the good people of this province are conscientiously scrupulous of bearing arms," earnestly recommended "to the Associators for the defense of their Country, and others, that they bear a tender and brotherly regard to this class of their fellow-subjects," [3] and then (June 30) adjourned till September.

If Dickinson's course in the assembly had been a difficult one, his position in the Continental Congress was little less so. Just before Congress met, and while the excitement over Lexington and Concord was greatest, the vacancies in the Pennsylvania delegation to Congress, caused by Galloway's refusal to serve and by the election of Rhoades as Mayor of Philadelphia, had been filled by the appointment of Thomas Willing and

[1] Votes and Proceedings, VI, 589.

[2] *Ibid.*, 593.

[3] *Ibid.*, 594.

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James Wilson, and to these Franklin was added as soon as he arrived from London, making the delegation a far less conservative one than that to the first congress. Moreover the instructions, which Dickinson drew, were somewhat relaxed. Yet the colony was opposed to the actual formation of a Continental army, and its representatives, whatever their private views, yielded to the measure only with reluctance and after warm debates. In giving way, Dickinson forced a compromise. Personally he was quite ready for war, but to make the necessary measures less repugnant to the conservatives and the "scrupulous" in Pennsylvania, he insisted that a last effort for peace should be made. An army should be raised, but a second petition to the king should be sent. Such were his terms, and Congress bowed to them, though with bad grace on the part of the extremists, who desired an offensive war, a seizure of all crown officers, the formation of state governments and a declaration of independence, and who rightly foresaw that till the king received and took action on this petition the policy must be a drifting one, with no decisive measures possible. Such was Dickinson's power that the extremists in Congress were forced to let him draw both the "Declaration on Taking up Arms" and the "Petition to the King" according to his own mind; and the curious difference in tone between the two papers can be explained only when the political condition of Pennsylvania in July, 1775, is understood. The extremists never forgave him for this dictation to Congress and for giving their measures "such a squinting turn, declaring war yet begging for peace." Only a year before, Dickinson had been hailed as the pilot who was to bring the colony into the popular movement. Now his "abilities and virtues, formerly trumpeted so much in America, have been found wanting."[1] "A certain great fortune and piddling genius, whose fame has been trumpeted so loudly, has given a silly cast to our whole doings." The extremists adopted towards him the same methods they had employed to crush Galloway. Letters were written decry-

[1] John Adams, July 23, 1775. Familiar Letters, 84.

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ing his conduct, and picturing him as influenced by selfish motives. "Whispers to his disadvantage"[1] were circulated.

However, he maintained his ground among the generality of the people in his own province, and particularly among those who still wished and hoped to see a reconciliation take place; and it must be allowed that, if his judgment had not quite approved the measure, yet on account of the people of Pennsylvania it was both prudent and politic to adopt it. Without making an experiment it would have been impossible ever to have persuaded the bulk of Pennsylvania but that an humble petition, drawn up without those clauses against which the ministers and Parliament of Great Britain took exception in the former petition, would have met with a favorable reception and produced the desired effect; but this petition, which was drawn up in the most submissive and unexceptionable terms, meeting with the same fate as others, obviated objections that would have been raised, and had a powerful effect in suppressing opposition, preserving unanimity, and bringing the province a united body into the contest. Whatever hand Dickinson had in the promoting, it ought to have redounded to his credit as a politician.

The October elections for the assembly, although somewhat changing the *personnel* of that body, left Dickinson if anything more influential.[2] Under his guidance the old delegation of the Continental Congress was reëlected, with the addition of Robert Morris and Andrew Allen, which gave it added conservatism. Of even more importance were the instructions he framed for them, binding the delegation to "dissent from and utterly reject any proposition, should it be made, that may cause or lead to a separation from our mother country or a change of the form of this government."[3]

The most difficult question, however, was the old one of a military force. No sooner was the assembly met than peti-

[1] Charles Thomson's Narrative. Stillé's Dickinson, 350.

[2] The strength of the conservatives is shown by the vote; for out of less than four thousand they received the following numbers: "Yesterday were chosen the following persons, Representatives for this county: Joseph Parker, 3077 votes; John Dickinson, 3122; Michael Hillegas, 3111; George Gray, 3107; Thomas Potts, 3103; Samuel Mills, 3098; Robert Morris, 1882; Jonathan Roberts, 1700." Christopher Marshall's Diary, October 3, 1775, p. 44.

[3] Votes and Proceedings, VI, 647.

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tions poured in from "associators," "committees," "officers" and various other bodies, pointing out the great injury from

> the lenity shown towards persons professing to be conscientiously scrupulous against bearing arms; that people sincerely and religiously scrupulous are but few in comparison to those who upon this occasion, as well as others, make conscience a convenience; that a very considerable share of the property of this province is in the hands of people professing to be of tender conscience in military matters; that the Associators think it extremely hard that they should risk their lives and injure their fortunes in the defence of those who will not be of the least assistance in this great struggle; that the memorialists therefore humbly conceive that some decisive plan should be fallen upon to oblige every inhabitant of the province either with his person or property to contribute towards the general cause, and that it should not be left, as at present, to the inclinations of those professing tender conscience, but that the proportion they shall contribute may be certainly fixed and determined.

To reënforce these petitions a resolution was obtained from the Continental Congress recommending the formation of "all able-bodied men between the years of sixteen and fifty into companies of militia." Counter-petitions from the Quakers and Germans were promptly laid before the assembly. That body was still strongly Quaker-German in membership, and was unquestionably opposed to enforced military duty, or even to the support of an armed force by general taxation. Knowing this, the associators laid counter-statements before the assembly, which purported to be petitions in answer to the Quaker and German memorials, but which were in truth very little less than orders to the assembly. The associators from the first had naturally been drawn chiefly from the Whig or violent party, and they now numbered nearly twenty thousand organized troops. Opposed to the wishes of this force of armed men were only the sects bound by their beliefs to "non-resistance." The associators therefore declared that "the people will not longer submit to see the public burthen so unequally borne," and begged that "to preserve the peace of the province and the consequence of your honourable house (which we would wish to govern us in this important struggle in preference to

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any other body)," you will "be pleased to take into consideration our former memorials." In other words, the armed associators had the power to enforce their wishes, and if the assembly would not do what they demanded, some other body would be found more compliant. To increase the pressure the "violent" members moved to make the debates on the petitions public, and though this was voted down, the members knew that the proceedings would be no secret out of doors. The assembly gave way, and just before adjourning passed an act "for levying taxes on the non-associators." [1]

This concession only whetted the appetite of the associators. When the assembly again met in February, 1776, it was to encounter a storm of petitions and complaints. The system of taxation devised was unfair, it was urged, and must be changed so as to make it bear more heavily on the non-associators. A test or oath must be taken before exemption from military duty was allowed. Associators must be admitted to citizenship without regard to the property qualification. All officers of the associators must be elected annually by each battalion. The non-associators must be disarmed. Such were the most far-reaching demands of the associators. The assembly granted few of them: taxation was made slightly more favorable; two associators in each company were allowed to vote for assemblymen; the non-associators were recommended to give up their arms; while, to prop its own authority, the assembly ordered that an oath of allegiance to itself should be required of the associators. Another demand, however, from the extremists in various counties was quite as serious. From York, Berks, Bedford, Cumberland and other "back" or western counties, petitions were presented begging an increase in the number of members of assembly. "A great number of the inhabitants of Philadelphia" petitioned to the same effect. In spite of the opposition of the conservatives, a new apportion-

[1] "James Cannon visited me this morning respecting a petition the Committee of private [and] officers intended to send to the Assembly. I gave as my judgment that no time should be lost, as I was apprehensive that the Assembly might soon adjourn, in order to prevent any application of them respecting a General Militia law." Christopher Marshall's Diary, October 20, 1775, p. 48.

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ment, adding seventeen members to the assembly, was promptly made, and an election was ordered. Of equal importance was the rejection, on the last day of the session (April 6), of a motion to "alter the instructions given at their last setting, to the Delegates of this Province in Congress."[1]

The extremists hoped to gain control of the assembly by the elections held on May 1, 1776, for the additional assemblymen, but they met with a bitter disappointment. Everywhere their wish for national independence was understood, and this revolted many who had hitherto given them aid. Instead of gaining, they lost strength in the assembly. If Pennsylvania was to give even the semblance of support to the independents, some other body or force must be called into existence to do it. To appeal to the people was no better, and the "violents" therefore turned for assistance to the Continental Congress and the associators.

The moment the result of the May elections was known the contest was transferred to the Congress. For months there had been friction between the New England delegates and the Pennsylvania conservatives.[2] On May 6, or as soon as the re-

[1] "In this colony [Pennsylvania] the spirit of the people is great, if a judgment is to be formed by appearances. They are well convinced of the injury their assembly has done to the continent by their instructions to their delegates. It was these instructions which induced the middle colonies and some of the southern to backward every measure which had the appearance of independency: to them is owing the delay of Congress in agitating questions of the greatest importance, which long ere now must have terminated in a separation from Great Britain: to them is owing the disadvantages we now experience for want of a full supply of every necessary for carrying on the war. Alliances might have been formed, and a diversion been given to the enemy's arms in Europe or the West Indies, had those instructions never appeared." Elbridge Gerry to James Warren, May 20, 1776. Austin's Gerry, I, 179.

[2] "Since my first arrival in this city the New England delegates have been in a continual war with the advocates of proprietary interests in Congress and this colony. These are they who are most in the way of the measures we have proposed, but I think the contest is pretty nearly at an end, and am persuaded that the people of this and the middle colonies have a clearer view of their interest, and will use their endeavors to eradicate the ministerial influence of governors, proprietors and jacobites, and that they now more confide in the politics of the New England colonies than they ever did in those of their hitherto unequal governments." Elbridge Gerry to James Warren, June 25, 1776. Austin's Gerry, I, 194.

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sult of the election was known, John Adams made a motion in Congress[1]

that it be recommended to the several assemblies and conventions of these United Colonies, who have limited the powers of their delegates in this Congress by any express instructions, that they repeal or suspend those instructions for a certain time, that this Congress may have power, without any unnecessary obstruction or embarrassment, to concert, direct and order such further measures as may seem to them necessary for the defence and preservation, support and establishment of right and liberty in these colonies.

This resolution was at once referred to the committee of the whole, where, after a heated debate, it was negatived. Defeated in this, Adams and Lee framed another motion:

Whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed and all the powers of government exerted under the authority of the people of the colonies, for the preservation of internal peace, virtue and good order, as well as for the defence of their lives, liberties and properties against the hostile invasions and cruel depredations of their enemies: therefore

Resolved, That it be recommended to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs hath been hitherto established, to adopt such government as shall in the opinions of the representatives of the people best conduce to the happiness and safety of their constituents in particular, and America in general.[2]

Against this resolution Duane, of New York, very strongly protested, as beyond the power of Congress.[3] No one ques-

[1] Works of John Adams, II, 489.

[2] Journals of Congress, May 15, 1776. "You know the Maryland instructions and those of Pennsylvania. I am greatly in doubt whether either of their Assemblies or Conventions will listen to a recommendation the preamble of which so openly avows independence & separation. The lower Counties will probably adhere to Pennsylvania." James Duane to John Jay, May 18, 1776. Jay Papers, I, 61.

[3] Works of Adams, II, 490. "The General Assembly of Pennsylvania is averse to any change. The people of this town [Phila.] assembled last Monday in the state-house yard and agreed to a set of resolutions in favor of a change. Another

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tioned the purpose of the motion,[1] yet the extremists succeeded in carrying it by a vote of seven colonies to four, and it was immediately published. "It has occasioned a great alarm here," wrote Livingston from Philadelphia, "and the cautious folks are very fearful of its being attended with many ill consequences next week when the assembly are to meet."[2] James Allen says in his *Diary* that the resolution was read

at the Philadelphia coffee-house. One man only huzzard; in general it was ill-received: . . . The Congress have resolved to recommend it to the different Colonies to establish new forms of Government, to get rid of oaths of allegiance, etc. I think the Assembly of this province, will not consent to change their constitution; and then heigh for a convention! A Convention chosen by the people, will consist of the most fiery Independants.[3]

As early as February 28, 1776, the committee of Philadelphia[4] had voted to summon a convention to meet April 2, but on March 4, by advice of the committee of correspondence, the call was "suspended for a few days." The suspension was for the purpose of observing the event of sundry petitions that were before the assembly, according to a favorer[5] of the call, though another records that this project of a convention was that of "a few warm members of the committee," and that "the measure, I am told, is so much condemned by thinking people, that it is dropped for the present."[6] Promptly on the publication of the above-mentioned resolution of

body are signing a remonstrance against the acts of that meeting and in support of that assembly. The committee for the county of Philadelphia have unanimously supported the assembly and protested against any change. It is supposed the other counties will follow their example and take a part in the dispute. Is it not to be feared that this point of dissention will spread itself into the adjoining colonies?" James Duane to John Jay, May 25, 1776. Jay Papers, I, 63.

[1] Wilson of Pennsylvania urged that "in this province, if that preamble passes, there will be an immediate dissolution of every kind of authority; the people will be instantly in a state of nature. Why then precipitate this measure? Before we are prepared to build the new house, why should we pull down the old one, and expose ourselves to all the inclemencies of the season?" Works of John Adams, II, 491.

[2] Papers of John Jay, I, 60.

[3] *Pennsylvania Magazine*, IX, 187.

[4] Diary of Marshall, 61.

[5] Diary of Christopher Marshall, March 4, 1776, p. 61.

[6] Judge Yeates to Col. Burd, Lancaster, March 7, 1776. Shippen Papers, 248.

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Congress the project was renewed, and on May 16 a meeting of "a number of persons" concluded to call a convention with speed; and "to protest against the present assembly's doing any business in their House until the sense of the Province was taken in the Convention to be called."[1] To carry out these purposes, the meeting requested of the "Committee of Inspection and Observation of the City of Philadelphia" that "a general call be made of the inhabitants of the City and Liberties . . . in order to take the sense of the people." This was considered at the meeting of the committee on May 18, and agreed to, with only five dissenting voices.

The meeting so called was held in the state-house yard, May 20, 1776.[2] One estimate was that four thousand people attended. It was unanimously voted that the instructions of the assembly to the delegates in Congress ought to be repealed; that the present assembly was unfit to frame a new government; that that body had no right to execute the resolves of Congress; that the present government was not competent to the present conditions; and, finally, that a provincial convention ought to be chosen "by the people." More important still was the adoption, with but one dissenting voice, of the "Protest" framed on the 18th, by which the meeting renounced and protested against the "authority and qualification" of the assembly. This paper at once produced a "Remonstrance"[3] from certain "inhabitants of the city," which was "carried by numbers, two and two, into almost all parts of the town to be signed by all 'tag, longtail and boby,' and also sent into the country, and much promoted by the Quakers."[4] These two papers were laid before the new assembly the day after it met, May 21, 1776. That body at once appointed a most conservative committee to prepare a memorial to Congress on its resolve of May 15, which it was understood would protest against the power of Congress to interfere in the local governments, and would claim for the assembly the sole right of

[1] Diary of Christopher Marshall, 71.
[2] *Pennsylvania Evening Post*, May 21, 1776.
[3] Votes and Proceedings, VI, 731.
[4] Diary of Christopher Marshall, 73.

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framing a new government, if such should be found necessary. What the committee of the assembly intended to frame is probably indicated in the phrasing of the Address[1] of the Committee of Inspection of the County of Philadelphia,[2] which, though signed by Hamilton, was really drawn by Dickinson, and was naturally what he wanted adopted by the assembly in which he was so powerful. In the words of this Address:

With the deepest concern we have lately observed that the ground on which our opposition to the arbitrary and oppressive measures of the British Ministry was first made, is so totally changed. Instead of our joining hand and heart in forwarding a reconciliation with our parent state, on constitutional principles, which is the object we ought ever to have kept in view, as the only termination of our disputes which can possibly give us happiness and security, a system has been adopted by some persons in the city and liberties of Philadelphia which tends immediately to subversion of our constitution.

When we recollect the declaration of Congress, that they "mean not to destroy the union which has so long happily subsisted, and which they sincerely wish to be restored"; when we think of the known instructions given to the delegates of the several provinces, as well as to those of our own, we are alarmed at the prospect of a disunion which must attend the prosecution of a scheme that will, in the end, not only set province against province, but (more dreadful to think) foment civil discords in each.

Should our inveterate enemies be so lost to all sense of justice and humanity as to persist in their infernal plan of despotism; should they drive us by their violence to that last shift, a declaration of independence, every one will then be convinced of the necessity of such a measure, and we shall be as one man, so united and strengthened by the conviction, as to bid defiance to all their attempts. . . .

What we have to offer and advise is, that you will most religiously adhere to the instructions given to our delegates in Congress. We consider them our greatest security. And we further most sincerely

[1] *Pennsylvania Evening Post*, May 21, 1776.

[2] The Committee of Inspection and Observation for the City and Liberties of Philadelphia must not be confused with this body. The extremists controlled the first, through the "mechanics and laborers"; but the farming Quakers and Germans of the county were sufficient to reverse this city majority where the whole county voted.

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intreat, that you will, to the utmost of your power, oppose the changing or altering, in any the least part, our invaluable constitution, under which we have experienced every happiness, and in support of which there is nothing just or reasonable which we would not willingly undertake.

The committee reported a draft of a memorial to Congress on May 24, when it was "referred to further consideration."[1] But in the meantime, to forestall the effect of this memorial to Congress, the Committee of Inspection and Observation of the city met on the same day, and drew up an address[2] to the Congress, in answer to the Remonstrance "that was or is intended to be sent from the assembly," informing Congress that they had summoned a convention, that the Remonstrance was produced chiefly by persons holding office under the crown, or by "those who have uniformly opposed every measure adopted by the Congress (petitions to the king excepted) or by those who have published testimonies manifestly injurious." This address was laid before Congress on May 25, and it was promptly tabled, though a copy was given to Robert Morris to lay before the Pennsylvania assembly, which he did on May 28.[3]

Quite as serious a blow to the existing government was struck at this time from another direction. As the creature of the assembly, the Committee of Safety was equally obnoxious to the popular party, who sought to discredit it. Early in May the Pennsylvania galleys in the lower Delaware had an engagement with two English men-of-war. The popular party set up the claim, in which they were gladly supported by the officers of the galleys (who, like the associators, were drawn from the Whigs), that the failure to destroy the English ships was due solely to a shortage of powder, and that the Committee of Safety was thus responsible for the miscarriage. This body at once demanded an investigation from the assembly, but the popular party cared nothing for investigations, and used the

[1] Votes and Proceedings, VI, 729.

[2] *Pennsylvania Evening Post*, May 25, 1776.

[3] Journals of Congress, May 25, 1776; Votes and Proceedings, VI, 730.

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charge to its utmost to discredit the executive branch of the government.[1]

Such was the condition June 1, 1776. The apparent government of Pennsylvania was a Committee of Safety and the assembly, supported by an undoubted majority of the people, but a majority for the most part pledged to non-resistance and led by a man of hesitating if not weak purpose. Opposed to this government was the "mobility"[2] of the city of Philadelphia and the Presbyterians of the back counties, with the associators, the galleys and a coming self-constituted convention of unknown potentialities to support them. Nor could the old government claim any superior right, divine or legal, over the new government that was looming up. The assembly, it is true, was the successor of ninety similar assemblies; but it had broken the old charter by disregarding the coördinate branch, the governor, by creating the Committee of Safety as an executive, by discontinuing the oath necessary under the charter for its own legal existence, and by a dozen minor infringements of that source of its own legal power.

Clearly the assembly was not in a position to carry measures with a high hand; and after the momentary vigor infused into it by the successful May elections, this fact seems to have dawned on Dickinson and his followers. After a draft of a memorial to Congress protesting against its resolution of May 15 had been reported, it seems suddenly to have been realized that to antagonize that body would be merely to raise up another and most powerful foe. The idea of a memorial was therefore dropped at this stage and was never again heard of. Concessions were also made to the popular party. A law was reported to do away with all restrictions on naturalization and all oaths of allegiance. The trustees of the loan office were practically directed not to enforce the law requiring yearly payments — naturally a popular measure to the debtor class.[3] But the popular party was not to be placated by minor

[1] Votes and Proceedings, VI, 730; Minutes of the Provincial Council, X, 583.
[2] Diary of James Allan, *Pennsylvania Magazine*, IX, 186.
[3] Votes and Proceedings, VI, 728–732.

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concessions, and through their friends in the Continental Congress they struck the assembly a second and crushing blow. On June 4 the Congress, in an apparently innocuous resolve[1] concerning the appointment of some brigadier-generals, directed that those from Pennsylvania and Maryland "be appointed by the respective colonies." The sting lay in the omission of the words "assemblies or conventions," hitherto the usual form; and the omission was practically a refusal by Congress any longer to recognize the assembly as the legal government. The effect was instantaneous. The resolutions were laid before the assembly June 5, and that body at once, in a last desperate attempt to retain the reins of power, surrendered to the "independents" by appointing a committee to report new instructions to the delegates in Congress. These were reported, and after debate were on June 8, by a vote of 31 to 12, "approved and ordered to be transcribed." They authorized the colony's delegation

> to concur in forming such further compacts between the United Colonies, concluding such treaties with foreign kingdoms and states, and in adopting such other measures as shall be judged necessary . . . reserving to the people of this colony the sole and exclusive right of regulating the internal government.

While the assembly had been framing this document, Richard Henry Lee had moved in the Continental Congress his resolution for independence (June 7), and though action on the resolution had been postponed, the popular party was emboldened by it. The independents in Congress would unquestionably have been satisfied with the removal of the instruction against independence, but the popular party in the colony saw in the demand of the new instructions for local self-government a bar to their schemes of a convention and a new constitution. They therefore, before the new instructions could be adopted by a formal vote, took steps to destroy the assembly. On June 10, when that body met, but nineteen members were present. For a few days a varying number of members met, only to adjourn. The representatives of the popular party had withdrawn, and their num-

[1] Journals of Congress, June 4, 1776.

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ber was sufficient to prevent a quorum.[1] After four days, despairing of obtaining a working attendance, the thirty-five members present on June 14 voted (thirteen in the negative) the new instructions[2] and a severe report on the captains of the galleys. But the popular party was in no mood to allow the assembly to retain even the semblance of power, and on the same day two protests, one from the "board of officers of the five battalions of Philadelphia," and the other from the "committee of privates of the military association," declaring practical independence of the assembly, were laid before the latter. That body, after passing a resolve "that they are earnestly desirous of carrying into execution the resolutions of Congress . . . [but] despair after repeated disappointments of procuring a quorum," adjourned to August, thus yielding the field to the convention.

As a preliminary to the convention there met in Philadelphia on June 8 a "provincial conference of committees," being delegates from each county committee of inspection.[3] The committees, except that for Philadelphia county, were made up of the popular party, and naturally the members sent to the conference represented that faction. Promptly after organizing they resolved unanimously that the present government of Pennsylvania was "not competent," and that it was necessary that a convention should be called for the "express purpose" of framing a new one. Their next act was to throw open the

[1] "Accordingly the minority, consisting of Whigs, upon the adjournment in the forenoon, suddenly and secretly quitted the city and every man returned home. When the house was to meet in the afternoon the Tory majority attended, & having waited some time found they had not a house. The messenger was then sent to summon four or five of the members supposed to be at their lodgings in the neighborhood. He returned that they were not at home, and that they had paid off their lodgings. He was then sent to four or five others, but he returned with the same account. Then the members found what conduct the absentees had pursued & with what design. Those who were present were not of a sufficient number to do any act but to adjourn. Their indignation was great. They adjourned to the next day, when being met again & not having the least power they broke up and went home." Reed's Narrative, N. Y. Historical Society Collections for 1878, 273.

[2] Votes and Proceedings, VI, 730.

[3] Journal of the House of Representatives, I, 34.

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franchise in favor of their own party by voting that in the coming elections every associator of twenty-one years of age, who had been one year in the colony and had paid or been rated for taxes, should be entitled to vote, at the same time narrowing the franchise for their opponents by resolving "that every person entitled to vote for representatives" should be equally entitled to vote for members of the convention, provided "he should take the following test, or oath of affirmation":

> I, ——, do declare that I do not hold myself bound to bear allegiance to George the Third, King of Great Britain, *etc.*, and that I will not by any means, directly or indirectly, oppose the establishment of a free government in this province by the convention now to be chosen; nor the measures adopted by the congress against the tyranny to be established in these colonies by the court of Great Britain.

Such an oath practically disfranchised every Quaker in the colony, as well as all who still held allegiance to George III, or to the Penn charter; and deducting these three classes from the conservatives was almost equivalent to disfranchising that party. But, as if this were not sufficiently certain, the conference next voted that all members of the convention, before taking their seats, should forswear allegiance to the English king; swear to promote the most effectual means to establish a government in the province "on the authority of the people alone"; and should declare their belief in the Trinity and in the divine inspiration of the Scriptures.[1] July 8 was set for the election of the delegates, and after some wrangling over the basis of representation the other details were arranged.

The convention having been arranged for, the conference next turned to the present affairs of the colony. They first passed a resolution that the convention when met should choose

[1] "The declaration agreed in conference to be taken by those elected to sit in Convention is highly censured, and as it's represented, and not unjustly, that I strenuously supported it, I am blamed, and was buffeted, and extremely maltreated by sundry of my friends, as I thought, and who, I believed, were really religious persons and loved our Lord Jesus Christ, but now declare that no such belief or confession is necessary in forming the new government." Diary of Christopher Marshall, June 28, 1776, 79.

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a new Committee of Safety and new delegates to the Continental Congress. They then took up the resolutions of the Congress, which the assembly had declared themselves unable to act upon, and recommended the "committee and associators" to execute them, thus striking another blow at the already toppling Committee of Safety. To discredit the committee still further, the conference interfered in the galley dispute by "recommending" that body not to do what it had just done.[1] Even more important was the action of the conference on June 24, in passing a unanimous declaration of their "willingness to concur in a vote of the Congress declaring the united colonies free and independent states." Then, on June 25, the conference dissolved.

In spite of the new instructions from both the assembly and the conference, the Pennsylvania delegates in Congress were still opposed to independence. In the original vote, on June 8, Dickinson, Morris, Humphreys, Willing and Wilson voted in the negative, and Franklin and Morton in favor. On the second vote, July 1, Pennsylvania was still in the negative. But other colonies which had hitherto stood with Pennsylvania were fast changing sides, leaving her delegates unsupported. On July 2, therefore, when the resolution was again moved, the delegation gave way. Dickinson and Morris absented themselves; Wilson changed his vote, and with Franklin and Morton outvoted Humphreys and Willing. The independents in Congress, by destroying the government of Pennsylvania, had so weakened the power of her ablest leaders as to compel them to assent or submit to independence. But in so doing they had destroyed all unanimity in the colony, and all chance for effective support from any established government in one of the most important of the provinces, at a moment when every soldier and every resource was most needed. Unless the convention could organize a new government promptly and bring order out of chaos, the vote of the colony for independence had been dearly purchased.

On July 8 the elections for the members of the convention

[1] Minutes of the Provincial Council, IX, 615.

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were held. In no case did the conservatives attempt either to vote or to stand for membership, and thus the nominees of the popular party, most of whom had been agreed upon at previous meetings, "were elected very quietly."[1] Seven days later, on July 15, the convention met and organized, with Franklin as president.[2]

Far from proceeding at once to the framing of a constitution, the convention, though called for the "express purpose," first set itself to regulating the affairs of the colony, as if both an executive and legislative body. After taking the oath of office, the convention began to give orders concerning munitions of war, the movements of associators, and finally for a general disarmament of non-associators. Two days after its first assembling it went even further, by appointing a committee to draw an ordinance for the latter purpose, and this was quickly followed by the appointment of similar committees to frame ordinances concerning treason, prisoners, counterfeiting, courts and other matters. Laws limiting freedom of speech and of the press, making state and continental currency a legal tender, regulating the prices of goods, and providing for a general jail delivery were quickly enacted. Determined that nothing of the old government should remain, a new and radical Council of Safety was appointed and a new delegation to Congress named, though the term of the delegation then holding office did not expire for over three months. The new delegation took their seats without opposition, July 20, and on the 22d the new Council of Safety met. The last vestige of the old government, except the adjourned and scattered assembly and a governor disregarded by all, was destroyed. The conservatives offered no opposition, and the popular party seemed to have grasped all the governmental powers of the community.

These manifold occupations naturally delayed the drafting of a new constitution, if indeed the convention did not purposely prolong the work so as to retain the powers it had grasped.[3]

[1] Diary of Christopher Marshall, 83.
[2] Journal of the House of Representatives, I, 49.
[3] Diary of James Allen. *Pennsylvania Magazine*, IX, 188.

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A new constitution would mean a new election, and the extremists very well knew that this would mean a defeat for their party. So greatly did they dread an appeal to the voters, that they even adopted a resolution continuing the old Committee of Inspection and Observation for the City of Philadelphia in office beyond the annual election day, for fear of defeat in what had hitherto been the stronghold of the popular party. It was openly charged that the convention had no intention of adjourning, but having obtained a firm seat in the saddle, was resolved to maintain its position.

Events, however, were not working favorably for such a purpose. The movements of the British forces at New York caused the need of the Pennsylvania associators at that place; and the convention, being the government *de facto*, was called upon by Congress to order them there. Such an order was naturally unpopular; for it was the middle of the farming season, and calling the men from the fields caused grumbling in the force which was the mainstay of the popular party; while at the same time, by their departure, the conservatives were left everywhere in relatively greater preponderance, and were freed from the restraint which resulted from the presence of troops. Refusals to obey the orders of the convention and the Council of Safety began to multiply. Persons declined tenders of paper money, and sold goods at their own prices. Desertions from the associators became numerous. Some companies and individuals refused to march to Washington's assistance, on the ground that they would not bear the burdens of service while the non-associators remained tranquilly at home. To meet this reasoning, an ordinance was passed taxing every non-associator twenty shillings per month, and four shillings in the pound on his ratables. But before this became a law the American forces had been defeated on Long Island, and New York City was in the hands of the British. Those who chose, therefore, declined to pay these taxes. The officers of the galleys refused to obey the commodore whom the Council of Safety had appointed; and though the council published an address upholding the commodore and blaming the "dangerous spirit of licentiousness"

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displayed in the mutiny, it nevertheless had to give way and name a new commander. A serious riot took place in Philadelphia. Three battalions of the associators mutinied and returned to the city. Others refused to embody and march. The opposers of independence and the convention spoke openly against both. So marked was the reaction, that the old assembly, which had tried to meet in August according to its adjournment but had failed to obtain a quorum, now (September 26) again gathered, and though still without a quorum proceeded to transact business. It declared that the convention possessed no right to pass ordinances, and recommended a refusal to obey them. Further, a year's salary was voted to the governor, thus indicating an intention to keep in existence all the machinery of the old government.[1]

These various events decisively indicated to the convention that it could no longer remain the government *de facto* of the state, and it therefore hastened to frame a constitution. Had it possessed a membership open to concession and compromise, there seems little doubt that a frame of government could have been adopted that would have united the people ; for there is good evidence that the conservatives had, in July, acquiesced in the movement for a new government, or rather that the party had split, and that, while many of the Quakers still clung to the old charter, the larger portion of the party, under the leadership of Dickinson, Reed, Morris and other moderate Whigs, had become convinced that the former government was ended, and were only seeking to obtain the best possible in its stead. In the middle of July Dickinson himself printed an *Essay of a Frame of Government for Pennsylvania*, and when the convention ordered its draft of a Bill of Rights printed "for consideration," a copy was given to Dickinson, and certain alterations that he made in it were accepted by the convention.

The controlling spirits of the convention, however, were too extreme and radical to understand that democratic government must consist of compromises. They saw in the opportunity to frame a new constitution a chance to retain control in their

[1] Votes and Proceedings, VI, 743.

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own hands, and in an endeavor to realize this they produced a most interesting result. That the government would be democratic was assured not merely by the extreme democracy of the old charter, but also by the *personnel* of the convention. But no constitution yet framed had ever made such great strides towards popular government. The one-chamber legislature and the annual election were hardly the work of the convention, for they were merely transferred from the Penn charter; having yielded such admirable results in the past, it is not strange that they were grafted into the new instrument. But great departures were made in other respects. All the freemen were constituted as a militia, with the right to elect their own officers. The qualifications for the electoral franchise were such as practically to establish manhood suffrage. Sessions of the assembly were made public, and its proceedings ordered printed weekly. All bills were to be "printed for the consideration of the people" before they went to a third reading, and, except on "occasion of a sudden necessity," no bill was to become law till the session of the assembly after that in which it originated, thus practically establishing a referendum. Apportionment of representation was made dependent on "taxable inhabitants." The council was elective by the people, as was much of the judiciary. Judges' commissions were limited to seven years. Imprisonment for debt was abolished. Citizenship was granted on one year's residence. Public schools were ordered established. A septennial council of censors was created, with power to examine all infringements of the constitution and to call a convention to revise it. Only by a study of the other constitutions adopted at that time can the radical character of these provisions be properly understood.

How far the constitution framed by the convention would have met with opposition on its own merits cannot be known. Although the vote of the convention "to pass and confirm" was declared to have been unanimous, there is conclusive evidence to show that a dissenting party existed; and if the statement of the journal is correct, the explanation must

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be that the dissentients withdrew before the final vote. But the opposition was caused not so much by the constitution itself, as by the endeavor of the extremists in the convention to prevent a fair election by requiring, as a preliminary to voting, not merely an oath of allegiance, but also an oath embodying a pledge not to do, "directly or indirectly, . . . any acts or thing prejudicial or injurious to the constitution or government . . . as established by the convention." By this requirement, with a like oath from all officers before taking office, the extremists designed to disfranchise and disqualify for office the larger part of their opponents.

On this question of the oaths, then, on certain clauses in the constitution, and on the ordinance to tax non-associators, the convention was divided. The extreme party carried out their policy, and the more moderate section, after resisting, withdrew before the final vote. When, therefore, the convention adopted the constitution, and adjourned, September 28, 1776, a marked shifting of political lines occurred by a coalition of the dissentients with the conservative party. The extremists, already hitherto in a minority, were by this change reduced to apparent insignificance as a political force. Arrayed against them were all the Quakers, the Germans, the moderates, and even a large part of the associators, led by Dickinson, Mifflin and Morris of the old party, and by Bayard and McKean, who had hitherto been most active with the extremists. The test oath was therefore the only hope of the popular party, or "constitutionalists," as they were promptly named, in the approaching election for an assembly under the new constitution.

The constitution was greeted with an almost universal protest. The papers were filled with attacks upon it, and resolutions opposing it were adopted in many public meetings.[1] The

[1] "Past six, went to Philosophical Hall, being called there by invitation in printed tickets, where met a large number of respectable citizens in order to consider of a mode to set aside sundry improper and unconstitutional rules laid down by the late Convention, in what they call their Plan or Frame of Government, where after sundry deliberate proposals some amendments were agreed to, nemine c. d. and ordered immediately to be printed with the reasons that induced this

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most important of these meetings was held at Philadelphia, October 21. On this occasion fifteen hundred people were estimated to have been present, and after a discussion by speakers both for and against the new government, the assemblage adopted by a "large majority" a series of resolutions which we may take to represent the wishes of the Whig opposers of the constitution. These recognized the coming election as legal, but declared that no oaths must be administered either to electors or elected, that no councilors should be chosen, that the assembly elected must have full power to amend the constitution, as well as to pass such ordinances as occasion required, and finally that the constitution so amended should be submitted to the vote of the people. To carry out these resolves committees were appointed by the meeting to secure support for them in every county of the state.

The election was held November 5. Unquestionably the Quakers refused to vote, and a large class of conservatives seem to have done the same. The contest was therefore one between the constitutionalists and the moderate Whigs. Owing to this shifting of party lines, the exact results are difficult to obtain. Of the seventy-two assemblymen elected only twenty-five had been members of the convention, and some of these had unquestionably become opposers of the constitution. From some counties not an extremist was elected. In Philadelphia all the anti-constitution nominees were elected by majorities of over one hundred in total votes of about seven hundred. On

company to make such alterations, to be published immediately for the perusal and approbation of the whole State at large, and that a general town meeting to be held at the State House in this City, next Monday afternoon, the proceedings of which to be printed and immediately transmitted to all the Counties in the State. The whole of the meeting was conducted with great order and solemnity, and broke up past ten, in great union. Thence to the State House Yard, where it's thought about fifteen hundred people assembled, in order to deliberate on the change of sundry matters contained in the Form of Government, settled in the late Convention. Col. Bayard seated in the chair, [we] proceeded to business, which was conducted with prudence and decency till dark; then adjourned till nine tomorrow morning. Chief speakers against [the] Convention were Col. McKean and Col. Dickinson; for the Convention, James Cannon, Timothy Matlack, Dr. Young and Col. Smith of York County." Diary of Christopher Marshall, October 21, 1776–98.

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the question "No Councilors," in which the personal element could play no part, the vote stood 406 to 211. Equally sweeping was the victory in Philadelphia county. Had the Quakers and ultra-conservatives voted, it is to be questioned if the constitutionalists could have carried a single nominee east of the Susquehanna River.[1]

The effect of the election was quickly shown in the call for a public meeting in Philadelphia on November 8 for the purpose of instructing the representatives of the city. The instructions adopted directed them to "prevent the immediate execution" of a constitution "which destroys the great objects of equal liberty and free government," and to secure its amendment by dividing the legislative department, giving judges a tenure during good behavior, abolishing the council of censors, and doing away with the obnoxious test oaths. When, therefore, the assembly gathered for the session to begin November 28, Dickinson, who had been chosen a member, submitted to the opposition an informal proposition for a program:

> We will consent to the choice of a speaker, to sit with the other members, and to pass such acts as the emergency of public affairs may require, provided that the other members will agree to call a free convention for a full and fair representation of the freemen of Pennsylvania, to meet on or before the —— day of January next for the purpose of revising the constitution formed by the late con-

[1] "Went past nine to the State House, being appointed one of the Judges to superintend and conduct the Election, as is usual. Continued there till near two next morning, where all matters in general were conducted with great harmony and concord in the house; two or three small buffetings I heard about the door in the street, but soon went over. Upon casting up the votes, they turned out thus: For Joseph Parker, 682; for George Clymer, 413; for Robert Morris, 410; for Samuel Morris, Jr., 407; for John Bayard, 397; for Michael Schubart, 393. These six were elected members. Those following had votes each, *viz.*, David Rittenhouse, 278; Timothy Matlack, 268; Jonathan B. Smith, 273; Jacob Schriner, 269; Thomas Wharton, Jr., 268; Joseph Parker, as above, he being chosen by both parties. Votes 'For No Counsellors,' 406; 'For Counsellors,' 211."

"The members chosen for [the] County of Philadelphia yesterday were Robert Know, 523; John Dickinson, 419; George Gray, 419; T. Potts, 407; Isaac Hughs, 282; Frederick Antis, 275. 'For No Counsellors,' 370; 'For Counsellors,' 133." Diary of Christopher Marshall, November 5 and 6, 1776, 102.

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vention, and making such alterations and amendments therein as shall by them be thought proper, and making such ordinances as the circumstances of affairs may render necessary; provided, also, that no part of the said constitution be carried into execution by this assembly; and provided, that this assembly shall be dissolved before the day to be appointed for the meeting of the convention.

The outcome of this proposition may be told in Dickinson's own words :

This proposal was rejected. The behavior of some persons on that day, and the disagreeable circumstance of entering into contests scarcely to be avoided with gentlemen I had for a long time esteemed, added to what had passed before, induced me to decline any further opposition to the constitution, and I retired from the assembly.[1]

Dickinson's withdrawal was imitated by others. The assembly had barely organized when it found itself without a quorum.[2] The moderate Whigs had taken a leaf from the book of the extremists, and were using the same means to end the present assembly that had been formerly employed to end that under the old charter. While the British under Howe were sweeping across New Jersey, with Philadelphia as their evident goal, the assembly met day after day only to remain helpless and inactive.[3] Finally the paralysis of all government in the state compelled the Continental Congress to interfere. The city was declared under martial law, and General Putnam was put in command. Word also was sent to the assembly that "if they did not agree to act," the Continental Congress "would take the government of Pennsylvania into their hands."[4] This marked the abandonment for the time of opposition to the constitution. Some absenting members returned to the assembly; others resigned their seats, and their places were filled at special elections, at which councilors were also appointed. Early in March, 1777, the government completed its organization. Yet it was never recognized by the larger part of the

[1] Dickinson's Vindication, *Freeman's Journal*, Jan. 8, 1783.

[2] Journal of the House of Representatives, I, 100.

[3] "Great pains were taken to get the militia out, but in vain; but few were prevailed on to turn out." Examination of Joseph Galloway, 15.

[4] Diary of James Allen. *Pennsylvania Magazine*, IX, 189.

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people, though the leaders of the opposition, from public spirit, laid aside their personal dislike and later in the war held office under it. But opposition never ceased till a new convention was voted in 1789, and the struggles of the two parties during the intervening period rent the people into bitterly hostile factions and paralyzed all public spirit and exertions.

Thus it was that national independence and a democratic constitution were voted in the Keystone State. To accomplish their purposes the New England and Virginia delegates struck down in turn Galloway and Dickinson,[1] the ablest men of the state (as later they tried to strike down Franklin and Morris), and aided to power a set of men of far less reputation and ability. The price paid is hard to compute. The division in the state had far-reaching results. It prevented Washington from receiving the full aid of the most important state of the Union at Long Island, at White Plains and in the campaign of the Jerseys. It alienated the richest city and the best grain and beef region from the American cause. It made Tories of many, and rendered Howe's eventual occupation of Philadelphia almost the occupation of a friendly country. It so weakened the government of Pennsylvania that for months, at the most critical period of the war, it not only was powerless to aid the continental side, but had actually to rely on the Congress for support. It created a lawlessness in the people that led to riots and confusion equaled in no other state, to the mutiny of the Pennsylvania line, the driving of Congress from Philadelphia, and the later civil insurrections. Finally, it built up a powerful "popularist" party, opposed to commerce, to sound finance and to federal union, that for many years hung like a dead weight on all attempts tending to advance those measures.

PAUL LEICESTER FORD.

BROOKLYN, N. Y.

[1] For evidence that the New Englanders were not unconscious of the harm they were doing the American cause, see John Adams to Abigail Adams, July 10, 1776. Familiar Letters, 19.

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THE TENNIS COURT OATH.[1]

PROBABLY in no period of history is the temptation to exaggerate the importance of dramatic events by a false isolation so great as in the early years of the French Revolution. This tendency renders the reconstruction or reinterpretation of the history of this epoch especially necessary. Until Professor H. Morse Stephens published his excellent book, the English-reading public had relied pretty exclusively upon Carlyle's picture of events. Carlyle's account, notwithstanding its poetic brilliancy, is in one sense quite conventional. With all his broadmindedness, he makes little effort to re-state events in new relations or from any other than the traditional standpoint. The Tennis Court oath is to him, as to most other historians, a picturesque incident associated with a court intrigue. No attempt has been made, as far as I am aware, to assign to this event its proper place in the great and irresistible current of advance. It is, after all, but recently that writers of history have recognized as their chief task the painstaking investigation of the often obscure causal relations of events — the tracing of gradual and inevitable development where phenomena have previously been treated only as spasmodic and erratic. It is with this in view that I shall try to sketch out the history of the Tennis Court oath of June 20, 1789, by which the deputies of the French people bound themselves to give France a constitution, and shall attempt to show that the incident was not the unpremeditated outcome of an invasion of carpenters, "hammering, sawing and operative screeching," but that the events of June 20 constituted in reality only a slight although politically important advance beyond the state of affairs on June 19.

During the months of May and June a momentous constitu-

[1] This paper is based upon one prepared for the meeting of the American Historical Association, December, 1894.

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tional change had been taking place in France. The old feudal assembly of the three orders, reassembled after an interval of one hundred and seventy-five years, was found, in spite of the studiously antiquated dress of its members, to have undergone a significant change since last it met. No royal edict could re-create the spirit of earlier centuries. The inevitable metamorphosis into a modern representative body took place during the succeeding weeks, notwithstanding the opposition of the conservative elements. It was finally decided by the court to suspend the sessions of the three orders, and this, as appeared to the third estate, with disrespectful if not suspicious abruptness. The pretext for the prorogation was that, as the king was to address the estates a day or two later, the spacious general meeting-place of the orders, which the representatives of the third estate had utilized since May 5, must be prepared for the royal session.

On finding the place of assembly occupied by the carpenters, the representatives of the third estate gathered in the Tennis Court of Versailles and adopted the following resolution:

> The National Assembly, regarding itself as called upon to establish the constitution of the kingdom, effect a regeneration of the state (*l'ordre public*) and maintain the true principles of monarchy, may not be prevented from continuing its deliberations in whatever place it may be forced to take up its sittings. Maintaining further, that wherever its members are assembled, there is the National Assembly, the assembly decrees that all its members shall immediately take a solemn oath never to separate and to come together wherever circumstances may dictate until the constitution of the kingdom shall be established and placed upon a firm foundation.[1]

The importance of this resolution lies in the fact that it was the first distinct and formal assertion of the assembly's mission. A resolution had been passed three days before (June 17) by which the deputies of the third estate had assumed the title of "National Assembly." The deputies had, moreover, taken an oath upon this same seventeenth of June

[1] Histoire Parlementaire, vol. ii, p. 3.

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very like the Tennis Court oath itself: "We swear and pledge ourselves to fulfill with zeal and fidelity the duties which devolve upon us." "This oath," we are told, "taken by six hundred members, surrounded by four thousand spectators (the public having gathered in crowds at this session), excited the greatest emotion, and constituted a most imposing spectacle."[1] Apparently all that is novel in the Tennis Court oath is the clear enunciation that the establishment of the constitution is the essential task of the assembly.

No adequate account appears to have been given of the development of this idea of a constitution. That it was not new on the morning of June 20, 1789, is obvious. The unanimous recognition on the part of the deputies that the true object of the assembly was the establishment of a constitution, is quite sufficient to prove that the public mind was ripe for this declaration. It is my purpose to indicate in a brief and general way the steps by which the French nation attained to a clear conviction that the salvation of the country depended upon the distinct formulation of the principles of government — a conviction which received its first official announcement in the Tennis Court oath.

The motives advanced by the king and ministers for convoking the Estates General had been but vaguely conceived and therefore but vaguely indicated in the Letter of Summons, January 24, 1789.[2] "We have," the document relates, "need of the counsel of our faithful subjects to aid us in overcoming all the difficulties in which we are involved respecting the state of our finances, and to establish according to our wishes a constant and invariable order in the various parts of the government which affect the happiness of our subjects and the prosperity of our kingdom." The phrase "fixed and constant order in all parts of the administration" occurs three times in this brief document as one of the great objects which the Estates General in conjunction with the king are expected to accomplish. Necker's report to the king,

[1] Histoire Parlementaire, vol. i, p. 471.

[2] Archives Parlementaires, vol. i, pp. 543, 544.

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issued a month previous to the actual summoning of the estates, although claiming to reflect the inmost purposes of the monarch, really does little to define the vague terms used in the letter of convocation itself. Necker says nothing of a constitution, but seems to take for granted that the Estates General are to be regularly and periodically convened in the future, while the worst abuses are to be done away with and the administration improved.[1] No farther program was furnished by the government until the king submitted an elaborate and interesting plan of reform in thirty-five articles[2] at the royal session, three days after the Tennis Court oath.

The ideas of reform vaguely advanced by the government had taken a much more definite shape, however, in the minds of the leading spirits in the nation at large, and had developed into the matured conception of constitution some time before the assembling of the Estates General. A remarkable forecast of the ideas which later became the basis of constitutional revolution is to be found in the *remontrances* of the *parlements* issued from time to time during the eighteenth century. These superior courts of France had formulated the theory of a constitution long before the revolution, and had, moreover, taken great pains to familiarize the public with the idea.[3]

Considering the inherently close connection between the legislative and the judicial functions of government, it is not strange that a proud and self-conscious body like the *parlement* of Paris should have been inclined to define its duties broadly and extend its influence so as to exercise a certain control over the formation of the law. This tendency was rendered

[1] Archives Parlementaires, vol. i, pp. 489 ff., especially pp. 496–7.

[2] Histoire Parlementaire, vol. ii, pp. 16 ff.

[3] The study of this interesting but neglected phase of the constitutional history of France will be greatly facilitated by the publication of the "Remontrances du Parlement de Paris au XVIII^e Siècle," which are being excellently edited by M. Jules Flammermont in the great series of Documents Inédits. The first volume only of this collection has appeared (1888), covering the period 1715–1753. The editor furnishes a valuable introduction, in which the position and pretensions of the court are carefully discussed. For the later period of the *parlements*' existence the present writer has, through the courtesy of the librarian, been enabled to utilize a number of contemporaneous editions of the Remontrances preserved in the White Library of Cornell University.

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almost inevitable by a custom which had long existed of permitting the courts to protest against, and demand a reconsideration of, kingly edicts when presented to them for registration. This anomalous right of participation in legislation was stoutly defended by the *parlement*, the arguments advanced being based not only upon precedent, but upon justice and expediency as well. The attempts of the king and his ministers to force the court to register edicts against its will produced serious crises. On these occasions the despotic character of the French monarchy and the problem of the exact nature of the legislative act[1] were brought prominently before the nation.

In order to support their contingent opposition to the wishes of the king, whom they recognized freely enough as the supreme law-giver, the courts put forward the theory of a constitution. They assume the guardianship of the "*lois fundamentales*" of the monarchy. It devolves upon them, they claim, to maintain the constitution of the kingdom and to see that no fundamental maxims are violated. This constitution was perhaps ill-defined, and was comprised in no accepted written code; nevertheless, the courts very properly pointed out that it was only by continuing to observe certain venerable usages that France could be said to enjoy a regular legal government at all. As they once bluntly told Louis XV: "Adulation itself would not dare to assert that in every case anything that the king wills becomes forthwith a law of the monarchy."[2] The *parlements* appear to have been conscious, however, that their claims rested at best upon a somewhat precarious foundation. They never venture to give a complete or even extended enumeration of the "fundamental laws" of the monarchy. For the vagueness of their pretensions they seek to compensate by solemn reiteration.[3]

[1] "La solemnité sacramentelle de la législation françoise," as it is called by the Parlement of Paris, Remontrances of June 18, 1763, p. 14.

[2] Remontrance of Parl. of Brittany, July, 1771.

[3] "Le Parlement sent bien la fragilité des droits qu'il réclame et il déguise la faiblesse de ses prétentions sous des affirmations vagues qu'il développe dans un langage solennel." Flammermont, *op. cit.*, I, xxxi.

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Notwithstanding the obvious want of definiteness in the theories of the *parlements*, there is much in the widely circulated *remontrances*, beginning with that of May, 1716, which could not but leave a deep impression upon a public that was becoming more and more conscious of the abuses and dangers of absolutism. The successive conflicts between the superior courts and the king's ministers, important as they were in cultivating a spirit of general discontent, cannot be considered here.[1] We must confine ourselves to the stimulus given by the *parlements* to the growing demands in the eighteenth century for a limitation of the king's powers.

The following statement of the *parlement's* case, made some seventy years before the Tennis Court oath, contains a summary of the claims which are separately developed at greater length in the various manifestoes of that body:

> While we recognize, Sire, that you alone are lord and master and the sole lawgiver, and that there are laws which varying times, the needs of your people, the maintenance of order and the administration of your kingdom may oblige you to change, substituting new ones according to the forms always observed in this state, we nevertheless believe it to be our duty to call to your attention the existence of laws as old as the monarchy, which are permanent and invariable, the guardianship of which was committed to you along with the crown itself. . . . It is by reason of the permanence of such laws that we have you as lord and master. It is this permanence which leads us to hope that the crown, having rested upon your head during a long, just and glorious reign, will pass to your posterity for all time to come.
>
> In recent times [the *parlement* adds] it has been clearly shown how much France owes to the maintenance of these original laws of the state, and how important it is in the service of your Majesty that your *parlement*, which is responsible to you and to the nation for their exact observation, should assiduously guard against any attack upon them.[2]

[1] The significance of these struggles is excellently explained by Rocquain in his admirable work, Esprit Révolutionnaire avant la Révolution.

[2] Itératives Remontrances sur la Refonte des Monnaies, July 26, 1718. Flammermont's collection, pp. 88 ff., especially pp. 94, 95.

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Even Louis XIV, the *parlement* claims, regarded that body as "the real guardian of the fundamental laws of the kingdom, and even the most absolute of the kings had accepted the registration by the *parlement* as a necessary condition for the enactment of a law." [1]

The superior tribunals, especially the *parlement* of Paris, are thus placed upon the same footing as the monarch himself. They both exist in virtue of the same fundamental or constitutional laws. Thus, "la constitution la plus essentielle et la plus sacrée de la monarchie," [2] as conceived by the magistrates, provided not only for a king with "fortunate inabilities," [3] but for tribunals which had a right to coöperate in legislation.[4] Both owed their existence to the same imprescriptible law by which the kings themselves were kings.[5]

The so-called "*Grandes Remontrances*" of 1753 discuss at length the relation of the will of the sovereign to the law of

[1] Itératives Remontrances sur la Refonte des Monnaies, pp. 95, 96.

[2] Remontrance of June 18, 1763, p. 16.

[3] "Bienheureuse impuissance," a constantly recurring quotation from the "Droits de la Reine sur divers États de la Monarchie de l'Espagne," supposed to have been inspired by Louis XIV.

[4] "Que toute administration dans l'état est fondée sur des Loix, et qu'il n'en est aucune sans un enregistrement libre, précédé de vérification et d'examen, que cette vérification est nécessaire pour donner à toutes les Loix ce caractère d'authenticité, auquel les peuples reconnoissent l'autorité qui doit les conduire," *etc.* Extrait des registres du Parlement, January 2, 1760, p. 13. See also Remontrance of June 18, 1763, *passim.*

[5] The Parlement asserts, in a remontrance of June 18, 1763: "Que de même que le souverain est l'auteur et le protecteur des Loix, de même les Loix sont la base et les garants de l'autorité du Souverain; et que toute atteinte portée aux Loix retombe plus ou moins directement sur le Souverain lui-même. Que méconnoître l'existence ou la force irréfragable de Loix immuables par leur nature, constitutives de l'économie de l'état, ce seroit ébranler la solidité du Trône même. Que suivant les expressions du Premier Président de son Parlement, parlant à l'un des augustes Prédécesseurs dudit Seigneur Roi, 'les Loix de l'état et du Royaume ne peuvent êtres violées sans révoquer en doubt la Puissance même et la Souveraineté dudit Seigneur Roi. Que nous avons deux sortes de loix; les unes sont les Ordonnances des Rois, qui se peuvent changer selon la diversité des tems et des affaires; les autres sont les Ordonnances du Royaume, qui sont inviolables, et par lesquelles ledit Seigneur Roi est monté au Trône royal, et cette Couronne a été conservée par ses prédécesseurs jusqu'à lui.'" This last quotation the court derived from a speech made by Harlai before the king, June 15, 1586.

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the land. The subjection of the kingly will to law is clearly set forth, and the theory is supported by a variety of somewhat startling quotations culled from the political literature of Louis XIV's reign.[1] This remonstrance of 1753, dealing with the refusal of the sacraments, closes the long struggle growing out of the bull *Unigenitus*. The succeeding conflicts between *parlement* and ministry turn on other matters. The popularity-loving magistrates, susceptible to the spirit of the times, learn to give a democratic or at least popular tone to their declarations. The terms nation, people and *citoyen* occur more and more frequently in the expostulations with the king. We can easily perceive the growing antagonism of the nation towards an unlimited or ill defined royal power. The clearest and most mature statement of the theory of a constitution which I have found occurs in an obscure remonstrance addressed to the king by the *parlement* of Brittany, dated July, 1771:

> There is an essential difference between the transitory regulations which vary with the times, and the fundamental laws upon which the constitution of the monarchy rests. In respect to the former [that is, the transitory regulations], it is the duty of the courts to influence and enlighten the ruling power (*l'autorité*), although their opinions must, in the last instance, yield to the decisions of your wisdom, since it appertains to you alone to regulate everything relating to the administration. To administer the state is not, however, to change its constitution. . . . It is, therefore, most indispensable to distinguish or to except the cases where the right of expostulation suffices to enlighten the ruling power in an administration which, in spite of its wide scope, still has its limits, and those cases where the happy inability [of the monarch] to overstep the bounds established by the constitution implies the power necessary legally to oppose what an arbitrary will cannot and may not do.

While this is obviously an *ex parte* argument with a view to justifying the pretensions of the courts, it is a remarkable approximation to the later ideas of a constitution as distinguished from current statutory legislation. Not only was the word constitution familiar to the thoughtful Frenchman many

[1] Flammermont, I, 521 ff.

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years before the Revolution, but the idea which underlies the modern conception of a constitutional government was ready at hand.

That the superior courts represented the nation since the disappearance of the Estates General, was perhaps the basis of the claim which the *parlement* ventured to make upon the sympathy of the public.[1] It was the *parlement* of Paris which, July 16, 1787, requested that the Estates General be again convoked, "considérant que la Nation représentée par les états-généraux est seule en droit d'octroyer au Roi les subsides nécessaires."[2] This demand, passed by a strange coalition of radicals and conservatives who held opposite views of the meaning of their action, was the beginning of the end. After a brief period of popularity the *parlements* disappear forever, with a last dignified protest in which they sadly lament the outcome of a movement which they had themselves so materially hastened.[3]

There is a natural temptation to attribute to our own institutions a very considerable influence upon the growth of the idea of a constitution in France. Apparently the earliest collection of our state constitutions ever made was destined for French readers.[4] These documents attracted the attention of thoughtful Frenchmen, and we have the comments of Turgot,[5] Mably,[6] and, later, the extensive work of Jefferson's friend,

[1] "Ce peuple avoit autrefois la consolation de présenter ses doléances aux Rois vos prédécesseurs; mais depuis un siècle et un demi les états n'ont point été convoqués. Jusqu'à ce jour au moins la réclamation des Cours suppléoit à celle des états, quoiqu'imparfaitement." Remontrances de la Cour des Aides, February 18, 1771. See also the famous remonstrance of the same court issued in 1775.

[2] Arrête du 30 Juillet, 1787.

[3] The last remonstrance of the Parlement of Paris is printed by Mortimer-Ternaux, Histoire de la Terreur, I, pp. 306, 307. See Pasquier's Memoirs (American edition), I, 70–74, and 98 ff.

[4] Recueil des loix constitutives des colonies angloises confédérées sous la dénomination d'États-Unis de l'Amérique septentrionale, traduit de l'anglois. A Philadelphie et se vend à Paris, chez Cellot et Jombert, 1778. Library of Penn. Hist. Soc.

[5] Adams wrote his "Defence" in answer to Turgot's strictures, which may be found in the latter's works.

[6] Observations sur le gouvernement et les loix des États-Unis de l'Amérique, 1st ed., 1784.

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Mazzei,[1] who is said to have been aided by Condorcet. The bills of rights prefacing a number of our early state constitutions are constantly referred to in the debates upon the Declaration of the Rights of Man, August, 1789. The experience of the United States may well have added somewhat to the precision and vigor of an already well developed movement towards constitutional reform ; more weight than this cannot, I think, be ascribed to foreign example.[2]

The French, long conscious of the abuses of their system of government, and anxious to insure their liberties by limiting the prerogatives of their monarch, turned their minds naturally and inevitably to a species of written guarantee which should give definiteness to the chief fundamental laws of the state. The very insistence placed upon the declaration of the rights of man showed that the people had in view a charter in the English sense of the word rather than an elaborately wrought out constitution, like that of 1791. "No one denies now," Mirabeau once remarked with characteristic insight,[3] "that the French nation was prepared for the revolution which has just taken place rather through a consciousness of its ills and the faults of its government than by the general advance of knowledge. Every one was conscious of what should be destroyed; no one knew what should be established." The proof of this is found in the pamphlets of the time, but especially in the great collection of *cahiers*.

As was most natural, the determination of the king to summon the Estates General called forth a great number of pamphlets, especially in the latter half of the year 1788. These corresponded in function to the modern newspaper, which very quickly developed from them. While they dealt very largely with the question of the number of representatives

[1] Recherches Historiques et Politiques sur les États-Unis de l'Amérique septentrionale, par un Citoyen de Virginie. Paris, 1788, 4 vols. See Sabin., Bib. Am., No. 47,207.

[2] Mr. Rosenthal has collected a great deal upon this subject in his careful work, America and France: Influence of the United States on France in the 18th Century (1882).

[3] Twenty-third note to the court in the correspondence with Lamarck.

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and with the method of voting in the assembly, some took up the work which the Estates General had before it. That of Siéyès is well known, and its author occupied an authoritative position in the assembly from the first. A less-known pamphlet, published anonymously, but attributed with good reason to Rabaut St. Étienne, the most radical perhaps of the more influential speakers in the assembly before June 20, is analyzed in the Introduction to the *Moniteur*.[1] This brochure, published a year before the Tennis Court oath, sets forth the necessity of establishing a constitution.

> So long as the changing and arbitrary form of your administration continues to exist [the author urges], so long will the ministers to whom your interests are temporarily confided be in a position to overturn the established order, modify or abrogate the laws and regulations made by their predecessors, while all your efforts to correct the abuses and better your situation will be futile and without permanent results.

In determining the principles of a good constitution, while the author speaks of those of Switzerland and of the United States, he evidently recognizes that England after all furnishes the most feasible model. The constitution ought, he holds, to provide for two houses of legislation, a separation of the powers of government, ministerial responsibility, security of person and property, liberty of the press, *etc.*, — a complete program, extracted in a measure no doubt from Montesquieu. So far, however, as I have examined the pamphlets of the times, — and a considerable collection is available in the Library of the Pennsylvania Historical Society, — the one just described seems to be exceptional. As Sorel says: "The French were much more anxious for civil than for political liberty." We find a great deal more discussion of financial oppression and of the existing social and economic abuses than of a proposed political or constitutional re-organization.

The same tendency is apparent in the *cahiers*. Still these indicate a very general if not practically universal desire that

[1] A la Nation Françoise, sur les Vices de son Gouvernement, sur la Nécessité d'établir une Constitution et sur la Composition des États-Généraux. Archives Parlementaires, vol. i, pp. 572–3.

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the despotic government of the Bourbons should cease. To take an example at random from one of the *cahiers* of the clergy, we find, article 1, this statement: "The fundamental [*constitutives*] laws of the nation ought not to be based upon doubtful and obscure traditions, but established upon a solid foundation, to wit, justice and the good of the people." Nothing is to be done in the assembly of the Estates General, the *cahier* declares, "until the rights of the nation are solemnly recognized and determined. A charter containing these shall be drawn up, in which they shall be formally and irrevocably inscribed."[1] This is characteristically vague, and, taking the orders throughout, represents the average minimum demand. Every one seemed to feel that the desired civil rights and freedom could only be secured by establishing so much of a constitution as would insure the periodic meetings of the Estates General. This participation of the nation in the exercise of legislative power would prevent oppression, if the rights of the individual were once defined, and solemnly and irrevocably reduced to writing. Such a course was not regarded as implying any radical innovations. In fact, in the case of some of the *cahiers* of the *noblesse* the desire appears to have been to secure their own special privileges, which they regarded as fundamental laws. These, if reduced to writing, were, it was argued, not so likely to be questioned in the future as they had been of recent years. Taine's assertion[2] that the nobility in general held with Montesquieu that France had a constitution, is not, however, borne out by the *cahiers*,[3] although there are some instances which give countenance to this view.

The general desire for some security for the maintenance of the fundamental rights of person and property takes a more definite form in certain urban *cahiers*, for example in that of the *sénéchaussée* of Lyons :

Since arbitrary power has been the source of all the evils which afflict the state, our first desire is the establishment of a really

[1] Sénéchaussée de Mans, Archives Parl., III, 637.

[2] *Cf.* Siéyès, Ancien Régime, p. 422.

[3] This is pointed out by Champion in his introduction to Siéyès' pamphlet, ix, note.

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national constitution, which shall define the rights of all and provide the laws to maintain them. Consequently our representatives shall request the Estates General to decree and His Majesty to sanction a strictly constitutional law, the chief aims of which shall be as follows: [a list of fourteen articles are enumerated, concluding with the provision that] since in no society can any happiness be hoped for without a good constitution (*une bonne constitution*), the Province of the Lyonnais recommends its deputies to discuss no other subject until the French constitution shall be fixed by the Estates General.[1]

Among the *cahiers* that of Paris *intra muros* forms a marked exception to the general vagueness. It was drawn up later than the rest, not being completed until after May 5, the day upon which the Estates General met. The committee appointed to draft the *cahier* included a number of distinguished men: Marmontel, Lacretelle, Bailly, Target, Camus and others.[2] The result of their deliberations is the most complete scheme of a constitution which appeared before that drawn up in the National Assembly itself. The first division of the *cahier* is devoted to this subject, and the representatives of Paris "are expressly forbidden to consent to any subsidy or loan until the declaration of the rights of the nation shall have become a law, and the foundations of a constitution are agreed upon and assured." The draft of the constitution is preceded, like that actually decreed later in the National Assembly, by a declaration of rights, which the *cahier* claims should "constitute a national charter and form the basis of the French government." No other *cahier*, so far as I have observed, except that of the *bailliage* of Nemours,[3] contains so clear a statement

[1] Archives Parl., III, 608, 609.

[2] Stephens' French Revolution, vol. i, p. 50.

[3] The third estate of the *bailliage* of Nemours charges its deputies to demand that when the Estates General shall have recognized and set forth those natural and social rights of man and of the citizen, the king shall draw up a *declaration* which shall be registered by all the courts, published several times a year in all the churches, and inserted in all the books destined for the instruction of the earliest childhood. No one shall be admitted or appointed to any judicial, magisterial or administrative office without having repeated this declaration from memory. A more elaborate draft of a declaration is furnished by Nemours than by Paris itself.

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of this characteristic idea that the declaration of rights is an essential element of the constitution. Not only was this suggestion accepted by the National Assembly, which, as is well known, formulated the "Declaration of the Rights of Man and the Citizen" before proceeding to the constitution itself, but the clauses themselves as they appear in this *cahier* of Paris are strikingly similar to those finally adopted by the assembly. The importance of the well-ordered constitutional provisions suggested in the *cahier* can best be estimated by their close approach to those of the constitution of 1791. I quote a few instances of articles proposed by the Paris electoral assembly:

In the French monarchy the legislative power belongs to the nation in conjunction with the king. The executive power belongs to the king alone.

The Estates General shall be periodically convoked every three years, without, however, excluding extraordinary sessions. They shall never adjourn without indicating the day and place of their next session.

Any one convicted of an attempt to prevent the assembling of the Estates General shall be declared a traitor to his country, guilty of the crime of *lèse-nation* [*sic!*].

In the intervals between the sessions of the Estates General, only provisional regulations may be issued in execution of that which has been decreed in the preceding Estates General, nor can these regulations be made laws, except in the following Estates General.

Many more examples might be given to illustrate the similarity between this sketch and the plan ultimately adopted. The *cahier* claims that

the constitution which shall be drawn up in the present Estates General, according to the principles which have just been set forth, shall be the property of the nation, and may not be changed or modified except by the constituent power, that is to say, by the nation itself, or by its representatives elected *ad hoc* by the whole body of citizens for the single purpose of supplementing or perfecting this constitution.

There was an attempt made during the week preceding the Tennis Court oath to induce the National Assembly, as it now

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called itself, to pass a decree in which the formation of a constitution was designated as one of the great objects to be attained. Mirabeau claimed that the king himself had recognized "the necessity of giving France a fixed method of government,"[1] and consequently regarded the laying of "the foundations of the wise and felicitous constitution" as the inevitable and obvious duty of the assembly.[2] Rabaut de St. Étienne, in a series of resolutions offered on the 15th of June, occupies the same position.[3] On the 17th of June the assembly finally defined its constitutional functions in a vaguer form as "the determination of the principles of national regeneration."[4] Thus, although the representatives of the third estate were chiefly occupied before June 20 with the questions as to the method of voting and the relation of their order to the other two orders, the great question of the constitution was not lost sight of. If the Tennis Court oath was the first official declaration of the purpose of the assembly, it was the inevitable outcome of preceding conditions, and was in fact only a re-statement of the resolution adopted by the assembly several days before (June 17).

It would thus seem clear that the conviction of the necessity for France of a written constitution was not due to any sudden crisis, but was, on the contrary, the outcome of a long period of preparation, during which one essentially conservative influence, at least, that of the superior courts, did much to insure the success of a movement with which they could, at bottom, have little sympathy. It is apparent, too, that relatively little weight should be ascribed to outside example, since the influence of foreign experience sinks into insignificance, as it customarily does upon careful investigation, in comparison with the irresistible tendencies in France itself during the eighteenth century towards a constitutional form of government.

JAMES HARVEY ROBINSON.

COLUMBIA COLLEGE.

[1] Histoire Parlementaire, vol. i, p. 445.
[2] *Ibid.*, p. 453. [3] *Ibid.*, p. 457. [4] *Ibid.*, p. 472.

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ON THE STUDY OF STATISTICS.[1]

I.

THE word statistics in English has a narrow and well-defined meaning. It means the enumeration or counting of something. By the statistics of imports and exports we understand the enumeration of all the commodities imported and exported, with their values. Bank statistics are the figures showing the transactions of the banking institutions of a country, the loans and discounts, the circulating notes and the specie reserve — in short, an exposition in numbers of the business of banks. A statistical abstract is a collection of statistics of various kinds pertaining to a single country or group of countries.[2] A statistical manual or handbook is a collection in condensed form of such figures for a country or group of countries; and a dictionary of statistics is the same material arranged alphabetically. So common and popular is this use of the term, that speaking of statistics involuntarily brings to mind volumes filled with statistical tables, pages of figures — raw material of such crudeness that almost any use can be made of it by skillful manipulation. Hence also the common sneer that statistics can be made to prove anything, that there are statistics on both sides or on every side of a question.

The cultivators of statistics have themselves set the seal of their approbation on this narrow interpretation of the word. Professor Ingram, when president of Section F (Sociology and Statistics) of the British Association for the Advancement of Science, said in his opening address:

It is plain that though statistics may be combined with sociology in the title of Section F, the two cannot occupy a coördinate position.

[1] Statistik und Gesellschaftslehre. Von Dr. Georg von Mayr. Erster Band: Theoretische Statistik. Aus Handbuch des Oeffentlichen Rechts. Leipzig, J. C. B. Mohr, 1895. — large 8vo., 202 pp.

[2] *E.g.*, the Statistical Abstract of Great Britain and Ireland; of The Colonies; of Foreign Countries.

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For it is impossible to vindicate for statistics the character of a science; they constitute only one of the aids or *adminicula* of science.

And Mr. Wynnard Hooper, in a paper read before the London Statistical Society and later in the article "Statistics" in the *Encyclopaedia Britannica*, said that by statistics we always mean the statistics of something, as of the number of bags of coffee imported into London during a certain week, or the number of passengers carried by the Great Northern Railway in a year. The members of the society present when the paper was read were practically unanimous in agreeing that Mr. Hooper had proved his point.

It must be admitted that the official statisticians in England and America very largely accept this view. Their work consists (according to their own opinion) in gathering statistics of something, that is, in mere enumeration and in publishing the result of the enumeration, often without note, explanation or comment. They regard themselves as blind instruments, transmitters of intelligence, like the telephone that receives and carries the message without understanding the content. They occupy a position similar to that of the Scriptural writers under that theory of inspiration according to which they simply wrote down what they were told to write, the message being true not because they had had anything to do with it, but precisely because they had had nothing to do with it.

It is of course obvious that the official statistician should be perfectly honest and impartial in his work. He must give us the statistics as he finds them, not as he thinks they ought to be or desires that they might be. His primary object is not to prove a thesis but to furnish material by which theses may be proved. His attitude is to be objective, and the statistics are to reflect facts, not his subjective opinions. It is perhaps the recognition of this that has led statisticians to leave their statistics in a somewhat crude and undigested form. The attitude is certainly praiseworthy; and although this professed modesty may sometimes have been used to cover indolence or lack of technical skill, yet it has been a step in the direction of scientific progress.

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There are signs, however, that this perfect passivity on the part of the statistician is not all that is demanded of him. He must present his material in an impartial way; but that does not preclude its being presented in a systematic way. He must utilize his experience to make his figures intelligible. He is the one who best knows how to manipulate them and it is his duty to make them manageable. His familiarity with the original material gives him expert knowledge which saves him from mistakes and misinterpretations such as an outsider may easily commit. It is the business of the statistician to place this knowledge at the service of the public and to give them not merely statistics, but intelligible statistics.

Advances in the direction indicated are seen in the care with which in modern statistical publications not only the absolute but the relative figures are worked out for comparison. If it is the statistics of sex, we have the proportionate number of males and females in different countries, at different times, the relative increase or decrease during the intercensal period, the proportion at different age-periods, among different classes of the population, *etc.* A further evidence of progress is the use of diagrams, cartograms and other methods of appealing to the eye. All this is merely technical. It is the work of the mechanician in preparing his instrument for its work. It requires skill, but it is merely technical skill. It is still statistics of "something," but it is statistics in a refined form.

The modern statistician does not stop here. He elucidates what his statistics show and what they do not show. He gives us the advantage of his expert knowledge so that we shall not misinterpret the figures. An example or two will make this clear. The bulletin of the eleventh census giving the number of insane in the United States reported a larger number of inmates of insane asylums in 1890 than in 1880; the superintendent of the census remarked that this was due to the larger number of such institutions and the increased care for such unfortunates. The statistician of the Treasury Department recently showed an error of $75,000,000 in the returns of values of imports of a previous year, due to the fact that

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imports from countries with a depreciated paper currency had not been valued on a specie basis as they should have been. Occupation statistics always require explanation because of the difficulties of classification. A dairy maid — is she an agricultural laborer or a domestic? A clergyman who teaches school — is he a clergyman or a teacher?[1]

Very often the statistician finds himself compelled to go further in his elucidation. He tries to explain his figures. The English census finds more old women than old men, especially in cities. The general fact, the editor thinks, is due to the less dangerous character of the occupations carried on by women, and the secondary fact, to the circumstance that in cities there is greater opportunity open to old women than to old men in the way of light employments. The number of blind in Ireland is decreasing, owing to the better medical service in the poor-houses and asylums. The distribution of the foreign-born in the United States has been influenced largely by the mere historical fact of the prevalence of slavery in the South. All these things the statistician feels himself bound to point out lest the figures be misinterpreted.

Finally, the statistician often proposes to himself certain problems, and tells us whether his figures can give the solution or not. For instance, the problem of over-crowded tenement houses. Can we get a statistical measurement of the evil so as to determine its prevalence and compare different countries, cities or districts? On this point, the editor of the English census of 1891 speaks as follows:

> We must first define what we are to take as a standard of over-crowding. It is plain that the number of rooms and occupants is not in itself an absolutely sure guide, because rooms differ largely from each other in size. Still we may be tolerably certain that the rooms in tenements with less than five rooms will not in any but exceptional cases be of large size, and that ordinary tenements which have more than two occupants per room, bedrooms and sitting-rooms included, may safely be considered as unduly over-crowded. [On this basis] there were 481,653 over-crowded tene-

[1] See Census, England, Part IV, p. 35, for detailed discussion.

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ments in which dwelt 3,258,044 persons, or 11.23 per cent of the total population; the average number of persons per room amounting to 2.8.[1]

All this is evidently more than the "statistics of something." The statistician is more than the enumerator of facts. He is a student of the relations and regularities of social life. He is more than the mechanician. He is an expert, manipulating a certain instrument of investigation for the purpose of accomplishing certain results. He is not a sociologist, in the full sense of the word, because he does not seek the whole explanation of social organization, but deals only with a certain range of facts.

Various uses of the word statistics show that this more extended activity of the statistician is justifiable and expected. When we say that "statistics prove," we have in mind not only an array of figures, but comparison of these figures with others in order to show that certain relations exist. When we say that "statisticians assure us" that an increase of food-prices is followed by an increase of crimes against property, we refer to an elaborate study of the changes in these two phenomena relatively to each other, extended over many countries and years. We sometimes use the term statistical method, and occasionally even statistical science. On the other hand, we do not use the term statistics in the singular, as we use mathematics, ethics and politics. The Germans have *die Statistik* and the French *la statistique*, denoting the method, art or science. It is evident that in English we have the thing if not the name. How shall we define the procedure and how limit the activity of the statistician? To exactly what work should the statistician address himself, and what is the relation of his work to that of the sociologist? The growing interest in the study of sociology in this country makes these questions pertinent.

On the continent of Europe the statisticians have busied themselves with these questions for many years, and we have

[1] Census of England, Part IV, p. 21. For equally interesting discussions of the tenement-house question, see Mass. Bureau of Statistics of Labor, 1891 and 1892, and Census of Ireland, 1891, Part II, p. 9.

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a considerable body of literature on the theory of statistics. Beginning with Quetelet, we have Wagner, Knies, Engel, Von Mayr, Knapp and Lexis in Germany; Guerry, Block and Levasseur in France; Gabaglio, Morpurgo and Messedaglia in Italy; and many others who have written on the subject. In the important work to which I refer at the beginning of this article Von Mayr reiterates his own theory, elaborated in the light of the work of his predecessors and contemporaries. It may, therefore, be taken as an authoritative statement of the most recent notions of the continental school in regard to statistics and their place in the study of social science. It will be worth our while to analyze these conceptions, and to try to determine if they will help us in answering the questions noted above.

II.

With what sort of a discipline, method, art or science have we to do when we speak of statistics in the singular?

Von Mayr's answer to this question is a very simple one:

Man may be looked upon as belonging to nature, or, owing to his spiritual development, as separate from or in contrast to nature. Under the first aspect he is an object of study for natural science; the scientific investigation of the phenomena of man's activity in the sphere of his spiritual life constitutes the content of the social sciences.[1]

The scientific study of man, whether as an object of natural or of social science, may be directed to the individual, either by careful investigation of his physical body or by observation of the development of mind, and either by introspection or by study of others.

Scientific study may also be concentrated on specific (*abgegrenzte*) masses of men, simply as masses or in respect to the new relations which spring up among men living together.

[1] The distinction is only a formal one; for in reality man, in spite of his spiritual activity, remains a product of nature, and the natural processes which bind man down to the laws of the animal world are at the same time an important limitation of, and the necessary substratum for, his spiritual activity. The distinction is a convenient abstraction for the division of labor.

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For the individuals in such masses do not merely stand like isolated atoms alongside of one another, but develop fixed relations, and especially groups or associations. These associations vary from the simplest almost unorganized groups for general social purposes to the highly organized associations for specific purposes, the most highly organized of which is the state. The object of social science is to study these masses, to observe their activity and the effect of such activity as it discloses itself in fixed relations, associations and institutions. What method shall we employ for this purpose?

Natural science can in many instances not only isolate its object but even subject it to experiment. To social science this experimental method is as a rule impossible. It can only strive by observation to obtain a comprehension of social masses, their activity and the results of such activity. This is done most completely by an exhaustive enumeration and measurement of the elements of the social masses. Such scientific observation of social masses is what we mean by statistics. Statistics may be defined, therefore, as the science of social masses.

The science of statistics as thus defined has two important sides, *viz.*, method and content, or theoretical and practical statistics. The first embraces method in its widest extent, including administrative statistics and the history of statistics. The statistician or scientific investigator must begin with the choice of material. It is impossible to observe all the facts of social life. Some it is impracticable to observe, as the facts of domestic life; others are not worth the trouble; still others it is not wise to question people about, as religious convictions. The amount of material which can be collected is limited by the resources or disposition of the administration. Scientific workers and practical statisticians should unite in determining what sort of material should be chosen.

The real questions of technique begin with the actual work of collecting the statistics. Here there are many questions requiring expert knowledge, such as the arrangement of the schedules, the periods of time chosen for the observations, the

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inquiries to be made, the organization of the office, the employment of other officers of the administration, the use of other material, *etc.*, *etc.* The statistician must be on his guard against various hindrances to correct returns, such as a disposition to exaggerate (centenarians); or to underestimate (tax returns); or to evade the question (physical or mental infirmities); or to answer untruthfully (previous criminality). The statistician must learn to arrange his questions in such a way that the answer to one will control the answer to another. A constant exercise of the critical faculty is necessary in order to prevent deception and imposition. The statistician must be an expert in such matters.

The next step, tabulating the figures, requires equal skill and expert knowledge. The arrangement of the figures, the choice of classes, the use of proportional rates, averages, weighted averages, median values, index numbers, diagrams, cartograms and graphical representations, — all these expedients for making the figures intelligible belong to the technique of statistics.

Finally, the statistician must arrange his tables so that they may be of scientific use for purposes of comparison and analysis. Thus, he must give the birth-rates for successive years, the density of population for various divisions of space, *etc.* It is impossible to give even a résumé of the thorough and exhaustive analysis of statistical method given in Von Mayr's book, which discloses the practical statistician as well as the trained scientist. All this pertains to statistics as a scientific method.

The practical part of the science of statistics comprises the actual knowledge thus far gained of the social masses. Von Mayr's second volume is to be devoted to an outline of such results. It will include population statistics, criminal, educational, economic and political statistics. It will give a complete picture of the social masses so far as we are able to observe them by the statistical method. Method and content together constitute the science of statistics according to the continental notion.

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III.

If we acquiesce in this notion of statistics as the science of social masses, with method and content as noted above, two difficulties at once present themselves: (1) What is the relation of statistics to the other social sciences? and (2) How shall statistics divide the field with sociology? Von Mayr has an answer to these questions also, and it is as follows:

The whole field of the social sciences may be divided between (1) the general social sciences, (2) the special social sciences and (3) history. The general social sciences are those which busy themselves with social masses or associations in general. Statistics and sociology come under this head. The special social sciences deal either with certain directions of social activity or with certain special manifestations of social life. An example of the first kind is political economy; of the second is philology. Statistics occupies a peculiar position towards all of these special social sciences. It first of all studies the social masses as pure process of nature, as in the statistics of sex, births, deaths and physical characteristics. In these respects it has many relations with natural science, especially anthropology. In the second place, statistics furnishes material for all the special social sciences, especially political economy. In political science it is also extremely helpful, inasmuch as administrative statistics are often used to guide state action. Statistics is, then, the fundamental and general social science, observing social masses directly and furnishing material to the other sciences.

The second question is a more difficult one, *viz.*, as to the relation between statistics and sociology. The latter is often looked upon as the general social science, and thus seems to cover the same field as statistics. Sociology deals directly with social masses or with societies from the primitive horde to the most highly developed nations of modern times. Statistics seems to cover the same field, while not using all the material which sociology claims to utilize. Von Mayr admits that social masses (societies) can be studied as groups or associations,

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and that there sociology has a field of its own. He doubts, however, whether societies can be observed accurately except with the aid of statistics. Statistics deals, therefore, with the study of social masses as such; sociology studies societies according to their forms and the laws of their development, and especially with the influence of social organization on the individuals concerned. Sociology he would call the theoretical social science; statistics, the practical social science. Both are introductory to the study of the special social sciences.

It must be confessed that this distinction between statistics and sociology is not very clear. They seem to cover the same ground and deal with the same material. Von Mayr claims that part of the confusion is due to the sociologists, who are not yet agreed as to the scope of their science, nor quite clear as to their method. They claim that it is purely inductive; but what they really do (according to Von Mayr) is to find a basis in history and in the observation of society for certain subjective notions of their own.

A solution of the difficulty seems to me to be suggested by Von Mayr himself when he calls statistics the practical social science, or the exact social science (*die exacte Gesellschaftslehre*).[1] Statistics is that part of sociology which rests on exact enumerations and measurements. Statistical science consists in the exact observation of social masses and the clear presentation, by means of enumeration and comparison, of the facts and relations of social life. It is not of much consequence in this connection whether we use in English the term statistical method or statistical analysis or statistical science. It would be convenient on some acccounts if we could use the simple term statistics to include both the method and the systematized results of the method applied to human life in society. As I have already pointed out at the beginning of this essay, the thing is already there, and it would be well to attach the conception to a definite name.

The advantages of the recognition of this conception are

[1] Von Mayr seems to confine this notion to the practical part of statistics. It seems to me impossible or at least undesirable to separate method from content.

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twofold. In the first place it would legitimatize and encourage the practical statisticians in the effort to treat their material according to the best technique and to present their results in a systematic and scientific form. The men who are to perfect the method must have some intelligent comprehension of the results to be attained. The statistician (to repeat) must be something more than a mere mechanic. He must be an investigator. What we need is not so much a greater body of statistics, as better statistics. The above conception gives the statistician ample scope for the application of the most refined methods, while at the same time unifying all statistical effort by giving it a common object, *viz.*, systematic observation for the purpose of gaining knowledge of social organization.

Even more important than this would be the influence of such a conception on the student of sociology. Statistics is one of the most important instruments of investigation in that science. The sociologist must not only use statistical results, but he should be familiar with statistical methods in order to test the trustworthiness and adequateness of his material. The statistical laboratory, where he can encounter the problems of statistical observation, tabulation, analysis and induction, is as necessary for the student of sociology as the dissecting room is for the physician or field work for the geologist. It is only by such work that we can counteract the tendency to sentimentalism and *a priori* speculation, which are so common among many so-called sociologists. It is here that we can insist upon precise observation, rigid technique and provisional induction, which are the foundation of scientific method. The study of the science of statistics, both in its method or technique as the science of social masses, and in its results as the practical or exact social science, affords the best promise for the development of a sane and intelligent sociology.

RICHMOND MAYO-SMITH.

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LABOR AND POLITICS IN ENGLAND.

THE situation in England at the moment offers an alluring though difficult field for the study of the development of democracy. The field is alluring, because the phase through which English politics is passing is in many ways novel; but the study is difficult, because we are too near in point of time to distinguish really influential from unimportant movements, even if we possessed insight enough to do so. Political parties in England are even now in the throes of a great change. A coalition, if not even a fusion, has taken place between the Conservatives and a group of men who ten years ago represented themselves as the pioneers of "advanced liberalism," [1] and who were widely regarded as the extreme radical wing of the Liberal Party. More important still, compulsory education has now been operative for about twenty-five years, and the last extension of the franchise, that of 1884–85, has had time to produce some effect upon the incidence of electoral power.

Successive Reform Acts, from 1832 until 1885, have practically given a vote to every man with a settled habitation, and in so doing have gravely altered the balance of political power in so far as that power is dependent upon the counting of votes at the polls. This change has not, however, been effected rapidly. While the Reform Act of 1832 was unquestionably looked upon by its promoters and its opponents alike as the beginning of "the career of innovation," [2] it did not involve any material extension of the franchise, or any material alteration in the incidence of political power as between the various classes of the people.[3] Yet it prepared the way for the reductions of the

[1] The Radical Platform. Speeches of the Right Hon. J. Chamberlain, M.P. (Edinburgh, 1885), p. 2.

[2] Chapters of Contemporary History (Pamphlet directed against the "Movement or Radical Party") by Sir J. Walsh, Bart. (London, 1836), p. 80.

[3] "The main principle of the Reform Act of 1832 was not the reduction of the franchise. In some boroughs, Preston, for instance, the franchise was raised.

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electoral qualification which came in 1867–68 and in 1884–85. The fact, however, that the Reform Act of 1832 did not extend the franchise may be held to account to some extent for the slightness of the change in the incidence of actual political power. If there were fewer squires in the reformed Parliament, there were more rich manufacturers.[1] At the most, capital had a larger share of direct representation and land had less, while the working class had no direct representation at all.[2] The English experience goes to prove that a class may have electoral power adequate to secure direct representation long before it has the material means or the available *personnel* or even perhaps the desire actually to secure it. Even prior to 1867, the working class had a majority of votes in fourteen constituencies, and had thus the power to elect fourteen members. But only two were even assumed to be elected in the working-class interest, and these were Mr. Fawcett and Mr. Thomas Hughes. The first was a professor of political economy and the second was a barrister. Although the electoral power of the working class was very largely increased in 1867 and 1868, it was not until 1874 that a workingman was elected a member of Parliament.[3] Even in the Parliament of 1892 direct representation of the working class was exceedingly slender, and the representatives were by no means united on important questions of working-class policy.[4]

The principle was to take electoral power out of the hands of the corporations, which had usurped the property and the franchise of the boroughs, and to vest it in the inhabitants at large." Speeches and Letters on Reform, by the Right Hon. R. Lowe, M.P. (London, 1867), p. 12.

[1] "The Reform Act [of 1832] . . . has given trade not more than 130 members. And these are gradually falling into the ranks of the landowners. . . . It has left class ascendency quite untouched." Bernard Cracroft, Essays on Reform (London, 1867), pp. 186 and 174.

[2] *Cf.*, however, F. Engel's Preface to English edition of The Condition of the Working Class in England in 1844 (London, 1892). "The Reform Bill of 1831 had been the victory of the whole capitalist class over the landed aristocracy," p. xii.

[3] The direct labor representation in the Parliament of 1892 numbered eleven, classified as follows:

Trade-Union Secretaries, past and present, described as Liberals . .	7
Workingmen, described as Labor Members	4

[4] On the eight-hours day question, for instance.

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Not only the leaders but the rank and file of both political parties still belong to the classes which, since the Revolution of 1688, have held political power in England. The immediate control of affairs has thus remained in the hands of members of the propertied classes, in spite of the extension of the franchise and the wider distribution of electoral power. This has probably been due mainly to the following causes: 1. The inevitable prominence given by rank or wealth, through which one who desires a political career acquires a great start. 2. The advantages of leisure and travel, coupled with those of education and associations definitively directed toward fitting men for a political career. 3. The extent to which politics has become a business in which special aptitude and special training are necessary for success. 4. Difficulties, in the form of jealousy, for instance, which, especially at the outset, impede a man who is endeavoring to get from the "ranks" into such a position of influence as may secure him a place in Parliament (even afterwards he is almost invariably an object of suspicion to those of his own order). 5. Reluctance on the part of the working class to pay the wages of a member of Parliament when many offer to serve for nothing. 6. The expensiveness of Parliamentary elections and the costliness of attendance at Parliament, especially for provincial members, and the reluctance on the part of both parties to pay these charges out of the public purse. 7. The extent to which both parties, impelled partly by good will, partly by fear, have really or apparently met the needs or the demands of the working class.

A thorough understanding of the various current movements in English politics involves at least two separate though allied lines of investigation. First, it is necessary to obtain a clear idea of the main lines of policy of the two political parties; second, it is necessary to embark on the much more difficult inquiry into the opinions of the classes which have the immediate or ultimate control of political affairs.

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I.

The limits of the present paper do not admit of more than the briefest survey of the apparent lines of policy of the two great parties. At least since the beginning of the present century both have been engaged chiefly in constitution-making and mending. At intervals they have been forced by economic conditions to adopt legislative projects of an economic character; but these projects have invariably resulted in cross divisions, sometimes even in party disintegration.[1]

The broad division between Whig and Tory, Liberal and Conservative, Home Ruler and Unionist is really a division arising out of differences upon proposed constitutional changes.[2] Economic or, as it is sometimes called, "social" legislation has invariably been forced upon one party or the other. That this should be the case is inevitable. The parties, existing because of differences in constitutional views alone, are naturally reluctant to imperil their existence by social adventures. Yet, especially since 1867–68, both parties have been anxious to take credit for such legislation. Immense pressure was required to secure from a Liberal government the trade-union legislation of 1871, and a Conservative government amplified this legislation, again under pressure, in 1875 and 1876.[3] More recently there has been the "Tory democratic" movement, headed in a spasmodic way by Lord Randolph Churchill, and the "Liberal democratic" movement, headed by Mr. Chamberlain. The settlement of the franchise question in 1884 and 1885 left only minor constitutional questions within sight, when the adoption of Irish home rule by Mr. Gladstone at once upset the existing balance

[1] Witness the free-trade movement, the Factory Acts, *etc.*

[2] The most favorable view of the Conservative position is that in conservatism society is conceived as an organism, and that certain institutions form a vital part of it. Men rather than institutions are to be blamed when necessary. The least favorable view of the Liberal position is that the Liberal regards society as a mechanism, and holds that when things go out of gear the machinery is at fault, and must be altered.

[3] The Acts were 34 and 35 Vict., c. 31; 38 and 39 Vict., c. 86; and 39 and 40 Vict., c. 22.

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of parties, and provided a new constitutional topic of the first magnitude. The Home Rule Bill of 1886 caused the defection of nearly one-third of the Liberal Party, led by the Marquis of Hartington and Mr. Chamberlain, and the consequent accession to office of a Conservative government. During the years from 1886 until 1892 — in Land Bills, so-called Coercion Bills, Light Railway Bills, the events of the Parnell Commission, the fall of Mr. Parnell, the disruption of the Irish Home Rule Party, and finally the Home Rule Bill of 1892, passed by the Commons and defeated by the Lords — the affairs of Ireland took precedence in everything. The reorganization of local government in England and Scotland was the chief constitutional achievement of the Salisbury government of 1886–92; while the retirement of Mr. Gladstone, which immediately succeeded the defeat of his Home Rule Bill, was the main incident of the Liberal reign from 1892–95.

But the making of constitutions is a means to an end rather than an end in itself; and whatever view may be taken of the nature of the end, there must arise from time to time, in the minds alike of those whose temper is conservative and of those whose temper is the opposite, a feeling that the constitution has been discussed to the point of exhaustion. To the one class, however, such a feeling brings only a desire of relief from urgent political discussions, while to the other it suggests that the constitution that has been secured shall now be used for the purpose of obtaining particular objects assumed to be of national or class interest. There can be no doubt that at present people are tired of tinkering the constitution. The Conservatives and Whigs want rest, the Radicals and Liberals want a change in the character of legislation. Lord Rosebery, perhaps, correctly interpreted the feeling of the working class when he described it as saying: "A plague o' both your houses."

Each party to-day has a "Newcastle Program." That of the Liberals was promulgated at a meeting held in Newcastle in 1891; that of the Conservatives at the same place in 1894. These rival programs show conclusively that the older party

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lines, excepting so far as constitutional questions are concerned, have practically disappeared, and that no new cleavage has as yet taken place. The projects of the Conservative Party in particular are vague enough; but in so far as they are definite, they do not differ materially in fundamental principles from the projects of the Liberal program.[1] Nor are any of the projects, on any reasonable theory of their probable effects, fairly to be regarded as revolutionary. They are indeed looked upon by genuine revolutionists with much contempt.

In 1885, prior to his separation from the Liberal Party, Mr. Chamberlain had embarked upon a campaign for the promulgation of a "Radical Platform." This platform consisted in various projects for social legislation which he desired the Liberal Party to espouse. Among these projects were the development of local government, free education, graduated taxation, free trade in land, restitution of improperly diverted endowments and of illegally made enclosures, disestablishment, and the fixation of fair rents in England and Scotland, as in Ireland.[2] The public interest which Mr. Chamberlain excited at that time was produced not so much by his proposals as by his denunciation of the alleged "sacredness of property" and of the "convenient cant of selfish wealth." These phrases and the pungent criticism by which they were accompanied caused him to be regarded as the leader of the radical wing of the Liberal Party.

When Mr. Chamberlain made his campaign in the country in the autumn of 1885 for the promulgation of the radical program, his proposals were on the one hand applauded, and on the other denounced, as "socialistic." The socialists themselves were willing enough to subscribe to Mr. Chamberlain's phrases about the "fetish of property"; but they

[1] Principal items in the Liberal Newcastle program are these: Irish home rule; reform of the House of Lords; electoral reforms; powers to purchase land compulsorily; local veto upon liquor traffic; extension of Factory Acts; special taxation of feu duties and ground rents; equalization of death duties; municipal taxation of land values.

[2] The Radical Platform. Speeches by the Right Hon. J. Chamberlain, M.P. Hull, Glasgow, Warrington, Inverness (Edinburgh, 1885).

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flouted his "allotments and small holdings," and his other "absurdly insignificant 'practical suggestions.'"[1] At this time, nevertheless, Mr. Chamberlain was looked upon as the apostle of the poor, and as one in whose eyes the "sacredness of property" was at least doubtful. The prominent local Liberals, the large employers of labor and "eminent capitalists" who attended Mr. Chamberlain on provincial platforms, did not altogether relish his "oratorical attacks" upon property, but they tolerated him so long as he was in the party and was supposed to contribute strength to it. During Mr. Chamberlain's period of coöperation with the Conservatives he has had little to say on such matters. His chief point of interest, other than that of hostility to his former party, has been the advocacy of a system of old-age pensions after the model of the compulsory-insurance system of Germany.

The recently chosen Parliament will find in each of the opposing parties a radical wing. Both these wings are far enough away from the standpoint of John Stuart Mill and George Grote, although the Liberal type, in so far as it is represented by Mr. John Morley, is rather nearer than the Tory to the old philosophical radicalism.

So much for the politics of the politicians; the politics of the people are much harder to interpret.

II.

In the middle-class view, the maintenance of the existing social order is to be desired equally on grounds of political and of material advantage. The supremacy of England on the sea is as much an affair of trade as of national glory. Political views in the middle and aristocratic classes are determined by tradition touched with selfishness. The same may be said of the working class. It also has its traditions, its historical antagonisms and its class interests, and these necessarily color its votes. Mr. Chamberlain once said:

I have always had a deep conviction that when the people came to govern themselves, and when the clamor of vested interests and

[1] W. M. (William Morris) in *Commonweal* (1886), vol. ii, p. 12.

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class privileges was overborne by the powerful voice of the whole nation, that then the social evils which disgrace our civilization, and the wrongs which have cried vainly for redress, would at last find a hearing and a remedy.[1]

But this meant simply that the interests of the new voters must now become clamorous; that the classes recently endowed with political power must exercise their newly acquired privileges; and that the older interests and the older privileges must go down before them. It would be hard to prove that democratic ascendency has as yet shown signs of securing the "universal interest" of Bentham's optimistic anticipation.[2]

One naturally turns first to the trade-union movement for evidence upon the state of political and economic opinion among the working people of England; for it is at the annual Trade-Union Congress that their views on such questions are most fully expressed. The earlier efforts of the Trade-Union Congress to influence legislation need not here be followed. They were mainly directed towards securing the removal of legislative restrictions on combination, and later towards the passage of an Employers' Liability Bill and other measures of a like nature. Perhaps Mr. Frederic Harrison correctly represented the prevailing trade-union view as it was in 1883, when he said, in his address to the congress held in that year:

> The labor laws passed within the last twelve years alone form a body of legislation for the good of the working classes of this country such as no other civilized country in the world can show; . . . And the result we see, that the relations of capital and labor, of the wages-paying classes and the wages-receiving classes, are in a condition of far less acute antagonism in this country than they are even in the democratic republics of Europe and America. It cannot be denied that this great body of legislation is to a very great degree due to the efforts of the congress. It can as little be denied that it has brought incalculable good to the working class whilst inflicting no wrong on the capitalist class. No one complains of this legislation; no one openly at least seeks to undo it. And the result is that we stand to-day thoroughly satisfied with the principle of the

[1] The Radical Platform, cited above, p. 3.

[2] Parliamentary Reform Catechism (London, 1818), p. 15. See also below.

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law so far as it directly deals with the general interests of those who receive daily wages. I say *in principle*, because what we shall ask for in the way of amending the law relating to workmen are mere extensions of some principle of protection abundantly recognized by the legislature — are simply provisions to prevent evasions of the law and devices for making the law a dead-letter.[1]

This statement may be held to represent the older trade-union view. The newer view is much less content with the achievements of the past. Compare the tenor of Mr. Harrison's address with that of the president's address at the congress in 1885, or at the congress in 1889. Apart from individual peculiarities of view, successive addresses exhibit an enlargement of the demands of trade-unionism. Witness this, for example:

What I hope and think worth striving for is that unionism should now begin to demand a larger share in moulding the national life. Wherever there is corporate existence, there let unionism make its voice heard and respected. With unionist parochial managers, unionist town councilors, unionist magistrates and unionist members of the legislature, what could not be accomplished? Why, the unjust employer and the sweater would be harried out of existence. Railway companies who pay eight per cent of a dividend and work their employees sixteen to eighteen hours a day would become an impossibility. Labor even of the lowest and humblest descriptions would be sympathetically dealt with. A public opinion would be formed which would once for all place and maintain labor on its true footing, and place idlers and others with no visible means of support also on their true footing. . . . What is wanted is the concentration of the power of unionism in the proper direction.[2]

Trade-unionism has, during the past ten years, undergone a great change, not only in its avowed aims, but in the type of men who manipulate its machinery. Although comparatively young men have all along had much more to do with the detail management of the trade-union movement than the

[1] "The Progress of Labour," *Contemporary Review*, vol. xliv, p. 477.

[2] Mr. Ritchie, Presidential Address. Report 22d T. U. Congress, *etc.* (Manchester, 1889), p. 17.

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older men,[1] the very young men have during recent years acquired more potency than formerly. While trade-unionism was still under the ban of the law, and while risk attached to active work in the movement, it was inevitable that men with responsibilities should shrink from too conspicuous positions, and that young men should take these. Though there is still some peril in an industrial sense attaching to prominence in trade-union affairs, there are countervailing advantages to be secured by active trade organizers, and these offer inducements to ambitious men. Another element in the change has been the transference of initiation in trade-union affairs from a group of self-constituted leaders in London to the parliamentary committee of the Trade-Union Congress, which is elected annually by the delegates to the congress, and which is composed of representatives from all the chief industries and from all parts of the country.[2]

Compulsory education has had its share in making the younger generation at once more confident and more intelligent in attack, while the too exclusively literary character of this education has for the time being probably contributed to promote distaste for manual labor and discontent with its conditions. The trade-union movement was, up till about 1884, entirely in the hands of the older type of trade-unionists, sagacious and steadfast men, with a large sense of responsibility, leaning for advice as to their policy very much upon such men as Mr. Frederic Harrison, Mr. Thomas Hughes, Mr. Vernon Lushington and others, — curiously enough, chiefly Positivists and Christian Socialists of the Kingsley type. This and subsequent middle-class connection was at once an advantage and a disadvantage. It helped the trade-union movement to secure the legislation it wanted; it helped to secure for it, also, toleration and even social consideration. All this was an advantage to the trade-union leaders and to the trade-union

[1] This is usually the case in revolutionary movements. Upwards of half of the members of the government of the Paris Commune of 1871 were under twenty-six years of age.

[2] For an excellent account of this change, as of the whole trade-union movement in its political relations, see Webb, Hist. of Trade Unionism.

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movement at the time; but the ultimate result was that the leaders lost touch with the rank and file of the unionists, and some of them lost the sympathy and support of their constituents.[1]

So long as the trade-union movement remained in the hands of unionists of the old type,[2] it was conducted by and for the *élite* of labor. All the unions were organizations of skilled workmen, with the possible exception of the Agricultural Laborers' Union, whose admission into trade-unionism was due to the agricultural lock-out of 1874. Unskilled labor was not organized. It was inarticulate; but the attitude of the unionists toward it was hotly denounced by the socialists, especially in *Justice*, the organ of the Social Democratic Federation. It is a tradition among trade-unionists that a strike or a lock-out is necessary in order to found and consolidate a union. The decisive moment for unskilled labor arrived in 1889, when the conditions of casual labor at the London docks, together with the propaganda of a small number of active socialists, brought about the dock strike of that year.[3] The docker's life was bad enough. The finances of the docks were in a deplorable position; the trade of the port of London had been changing rapidly, and the machinery with which the trade was carried on had not as yet adapted itself to the changes. Large numbers of men were employed on particular occasions, while weeks elapsed before so many were employed again. The element of chance in dock employment brought hundreds to the gates every morning. A few were taken and the others were left. This state of matters was partly inevitable and partly the result of defective administration. The Social Democrats grasped the situation, and succeeded in making the docker monopolize public attention and in securing for him public sympathy.

[1] Witness the case of Mr. Broadhurst. See the Report of the T. U. Congress at Dundee, 1889 (Manchester, 1889).

[2] As represented in the attitude of Mr. Frederic Harrison, quoted above.

[3] For an account of the strike, see The Story of the Dockers' Strike, by H. L. Smith and Vaughan Nash (London, 1889). For the financial state of the docks and the condition of trade of the port of London, see art. "Docks," Palgrave's Dictionary of Political Economy, vol. i. (London, 1893).

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Fear of an extensive emigration to the Australian colonies, as well as sympathy for an aggressive anti-capitalist policy, led to the remittance of £30,000 from Australia to the strike committee. This enabled the committee not alone to continue to pay the workmen on strike, but even to support many thousands of loafers who would otherwise have taken the places of the men. The result was at least a partial victory.

The importance of the strike did not, however, lie merely in the gain of the docker's "tanner"; it lay in the circumstance that for the first time the mass of intermittent, low-grade labor which carried on the works of the docks and wharves of London was, at least for the time being, effectively organized. The organization of this mass of labor, which the trade-union movement proper had wholly passed by, at once brought into prominence the men who had accomplished it. Some of them afterwards became members of the London county council and candidates for Parliament, one of them even securing a seat in the election of 1892. Immediately after the organization of the dock laborers they secured admission for their representatives at the Trade-Union Congress. The congress held at Liverpool in 1890 was attended by six delegates, representing 162,000 dockers.[1]

This invasion of the congress by unskilled labor[2] greatly reënforced the "new unionist" movement which had been arising during the previous two or three years. It was, indeed, symptomatic of the victory of "new unionism" for the time over old unionism. Although the tone of the Trade-Union Congress varies from year to year, it is approximately correct to say that from about 1883 an undercurrent of change in the direction of new unionism, with collectivism as part of its creed, began to appear. In 1885, the address of the president of the congress[3] was aggressively socialistic; in 1888 and

[1] Report of 23d Annual Trade Union Congress (Manchester, 1890), p. 3.

[2] The Agricultural Laborers' Union had joined in 1875; but their numbers were in 1890 only 12,000, although in 1875 they returned their membership at 60,000. *Cf.* Reports T. U. Congresses, 1875 and 1890.

[3] Mr. T. R. Threlfall. See Verbatim Report of the Opening Address, *etc.*, by T. R. Threlfall (London, 1885).

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1889 the new unionists made themselves felt in eight-hours day resolutions; in 1890 came the invasion of unskilled labor, and each year thereafter the resolutions of the congress assumed an increasingly collectivistic tone. The congress of 1894 may be said to have been an avowedly collectivist body.[1] In that year, for the first time, not only were thoroughly collectivistic resolutions adopted, but the new unionists obtained a secure hold on the parliamentary committee, the executive organ of the congress.

The trade unions may be held to possess a membership of about 1,500,000. This is, after all, a small fraction of the total laboring population of the United Kingdom; though the influence of the movement no doubt extends somewhat beyond the range of membership. For the origins of political and social movements one must look not only beyond the political parties, but even beyond the industrial organizations. Although the coöperative and trade-union movements were alike originated by small bands of enthusiasts who struggled against social discouragement and legal prohibition, they have become established institutions, and have even acquired a certain inflexibility. For the origin of the changes which have been forced upon these movements by their capture, partial or complete, by outsiders, we must look outside of them.

III.

One may pursue his inquiries in workmen's clubs and in debating halls frequented by workmen. In such places one naturally hears mainly the demagogue and the faddist. Among the land-nationalizers, the paper-currency men, the temperance men, the disestablishers, the neo-Malthusians, the secularists, the theosophists, the anti-vivisectionists, the men with antipathies to the game laws, the license laws, the system of banking or the system of education, — among anarchists and socialists of several varieties — one finds it hard to infer any common tendency of thought or action. Indeed, so few

[1] *Cf. The Times* (London), September 5, 1894.

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among them have thought out fully the issues of the question which forms the group bond, that any scheme of action, or even any fresh statement of principle on the lines of the original idea, inevitably results in disruption of the group. Witness the division among the temperance party on the question of the Gothenburg license system, and the division among the socialist groups on "the policy of permeation." There is almost no group too small, or too sectarian, or too recently formed to have escaped schism. The very enthusiasm which renders the group possible is apt to make for its disintegration.

The rank and file who comprise the audiences of sectional groups of this sort, both in London and in the provinces, are, as a rule, men occupied in the lower grades of skilled labor or in the ranks of general and casual labor, with some sprinkling of the unemployed. This is not meant as a criticism of these audiences; it is simply an analysis. It is natural that those who are most anxious to hear expounded the new social gospel, whatever it may be, should be those who rightly or wrongly suppose themselves to be suffering from the existing social order. The student of social problems may laboriously make a diagnosis; these people feel or think they feel the disease in their bones. The superior artisan, in constant employment, does not read much. As a rule, he is too exhausted by bodily labor to read serious works, or to devote himself to the task of abstract thinking which is necessary to grasp even a fraction of the social problem. The unemployed or the casually employed read much more. The free libraries are most frequented during periods of dull trade. Thus it naturally happens that the unemployed or casual laborer often knows more from books, as well as from experience, of what constitutes the social problem than his more fortunate regularly employed fellow-citizen. But beneath these grades, — beneath the regularly employed citizen who has no time to read and the casually employed who has too much time, — there are grades who do no reading, but whose hopelessness and whose dullness are at once among the causes of the social problem, and among the reasons of its insolubility.

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The best types of the working class are probably the least conspicuous. One finds a workman indistinguishable from his fellows, save perhaps in a certain air of refinement discernible beneath the grime of his trade; one goes to his home, finds him possessed of all the essentials of cultivated life — which he enjoys in an easy absence of ambition and discontent. There is perhaps a certain selfishness in this type which may be begotten of ardent but disappointed enthusiasms for successive schemes of social amelioration. His vigor, skill and self-reliance have enabled him easily to sustain himself and his family. He has even had leisure to think of social progress; but actual contact with propagandism has made him something of a cynic. Less placid and genial, with a keener eye to the main chance, but capable and energetic withal, is the typical member of the coöperative society. In town and country he takes a vigorous interest in his church, which affords an outlet for the spare energy of himself and his family, supplies the means of periodic intellectual and moral stimulus, and by fixing his eyes from time to time on another life, prevents morbid vexation about the shortcomings of this one. Healthy, practical, upright, sober, unemotional, and not particularly intellectual, this type is the backbone of working-class society in many of the industrial centres in England and Scotland. Were one to find his way into a business meeting of a coöperative store, he would be impressed by the practical sense, the alertness about dividends, the aptitude for hard bargaining, frequently carried too far, the jealousy of overpayment of the employees of the store, the shrewd foresight as to the consequences of a projected policy, and, above all, with the self-centered confidence of the men and women, their immediate insight into their own interests, and their positive disregard alike of state action and of the aid of commercial capital.

The above affords, of course, no adequate picture of the working class in Britain; but it is true so far as it goes. Permeated by strange enthusiasms, largely for good things, without any fine sense of the meaning of freedom, or consideration

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for the feelings of each other or of others, easily led, hardly driven, by turns emotional and frigid, the British workman is a complex creature. If we would know the net force of opinion in England, we must know not only what the British workman thinks, or what it is suggested to him that he should think; but we should know also what he is. No one has as yet told us that. The British workman of the modern type — the victim, if one may put it cynically, of free education, of the later phases of coöperativism, of socialism, secularism, salvationism, Toynbeeism, and the other enthusiasms with which to a greater or less extent he has been inoculated — is as yet without his artist. He awaits a Dickens or a Balzac or a Zola. We want the vivid insight of a master of fiction to give us the truth. Mr. Charles Booth has given in unrivaled detail a microscopic view of the life and labor of the worker who lives below par or just on the line which separates honest and self-sustaining labor from poverty and crime; but Mr. Booth's work, invaluable as it is, is a panorama; there yet remains to be done — a picture.

IV.

The great depression of trade undoubtedly had much to do with the widespread acceptance of schemes for social amelioration or reconstruction which, especially from about 1881 onwards, were laid before the working people with much zeal by various agencies. Two of these were the land-nationalization movement, and the group of movements which are customarily known as socialistic.

The propaganda for the nationalization of the land carried on by Mr. Henry George and his disciples offered to the dispirited unemployed workman a specious point for definite attack. Industry was obviously out of gear in free-trade and in protected countries alike. The mysteries of currency and of alleged excessive investment of capital in highly durable but not immediately remunerative forms were too recondite for the workman's mind. The rapacious landowner, who absorbed all the

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unearned increment and taxed the community for the free gift of the Almighty, was a much more concrete enemy and a more obvious cause of poverty than the invisible economic forces. Hence for four or five years in England, the land-nationalization panacea really had some influence over the minds of the working people and of a certain proportion of the middle class. Even in 1885, Mr. Chamberlain was undoubtedly impressed by the idea; it appears as an undercurrent in his speeches of the time. But the difficulty of translating so revolutionary a proposal into practical action, even through the medium of a single tax, and the absence of any well-devised scheme, contributed to the hopeless defeat of the few candidates who in 1885 made the question a test one at the polls.[1] Soon after this defeat the movement as a separate propaganda almost entirely collapsed, being overborne by the more comprehensive socialist movement which had begun about 1881.

The land-nationalization movement, in itself a failure, contributed, along with the depression of trade and other influences briefly noticed above, to the promotion of an attitude of doubt and criticism towards the existing social system. There was nothing novel either in the process or in the nature of the criticisms, nor was there anything novel in the suggested remedies. The economic conditions were new in so far as they resulted from the spontaneous organization of capital and of labor respectively, occurring contemporaneously with the development of machinery. The consequences of these movements — rapid growth of population; increase in the volume of trade and in the fluctuations of it, with inevitable intermittence of employment; increasing means and desire for luxury, with temporary or continuous lack of power to secure this luxury on the part of a large class who had acquired a desire to secure it — all suggested a connection between progress and poverty which "sprang into the eyes."

[1] The only exception was the success of Mr. Seymour Keay, M.P. for Elgin and Nairn, who adopted the Liberal program with land nationalization added. The independent land-nationalization candidates were all defeated in 1885. No attempt was made to repeat the experiment in 1892.

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The political conditions were also novel; for the very people who felt "the chill of poverty in their bones" had become the owners of electoral power. Moreover, governmental administration in England had passed its corrupt phase; there was general confidence in the efficiency as well as in the honesty of state administration. What could be more natural than the development of a desire that the public powers should be employed in removing the inequalities that had originated during a period when the electoral power was in other hands. It was held as proved that aristocratic or middle-class ascendency had secured to these classes "the maximum inequality in their own favor." The extension of the franchise had rendered the power into the hands of *Demos;* why should *Demos* not use it for his own interest as his predecessors had used it for theirs?

It is thus that the various forms of socialism, from the Marxist collectivism of the Social Democratic Federation to the Anarchist communism of the Socialist League, found a lodgment not only in the minds of the working class, but in the first instance especially in the minds of members of the universities and others who felt that material progress was indeed vain if it did not involve an obvious elevation of life all round. A great and manifest increase of general happiness was to be expected and must be secured. Calm discussion of the balance of advantage resulting from individualism or collectivism respectively was set aside as the "sterile controversy" of a "soulless school." It was held to be obvious that unmitigated competition and inviolable sacredness of property had as their inevitable concomitants acute and widespread misery. The opposite of competition is monopoly, and the most effective monopolistic body is the state. The opposite of individual property in the means of production is state property in them. Thus collectivism commended itself at once to the philanthropic enthusiast and to the unemployed workman. State employment would mean constant employment; state possession of property would mean common enjoyment of it.

The apparent periodicity in the emergence of socialist ideals

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among the English people might be held to suggest a fitness for their realization; yet the contrary might perhaps with equal legitimacy be inferred from the circumstance that each of the movements has been short-lived. Perhaps the explanation of the collapse of successive socialist movements is to be found in their partly political, partly ethical character. The enthusiast for socialism on moral grounds is not always willing to adopt the methods or to sympathize with the manners of the advocate of socialism on political grounds. It is matter of common observation that the aggressive collectivist is often an individualist in a thin disguise. We may infer from all this that socialism in the sense of collectivism, for instance, does not necessarily involve socialization of society or recognition of the brotherhood of man, but may even mean the opposite. "Economical socialism is no bar against moral individualism." [1]

The socialist propaganda on its ethical side has no doubt contributed to the awakening in the public mind of an acuter sense of individual and social responsibility, and so far may be held to have been a great gain. On its political side it is no doubt largely an affair of taxation.[2] In any individual instance it is a question of relative advantage between the voluntary payment for a service to the government and the compulsory payment for the same service by means of a tax. On its political side it may be that socialism will fall a victim to a change of fashion. After a period of febrile activity it may burn itself out for the time. Propagandas for the wholesale regeneration of humanity usually have this history. They are preached by a few enthusiasts in an upper room; they are scouted by the people at large; all the forces of philistinism are necessarily arrayed against them; then they are widely accepted and more widely dreaded. Then divergencies develop in the ranks of the regenerators. The goal which looked so near when adherents and applause obscured the view of it recedes when these fall away. It

[1] B. Bosanquet, Essays and Addresses (London, 1889), p. 70.

[2] As shown, *e.g.*, by Professor J. S. Nicholson, in his brilliant discourse, "Historical Progress and Ideal Socialism" (Edinburgh, 1894).

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is well, however, at the present juncture, when collectivism or state socialism is in the widely accepted and much dreaded phase, to look the probabilities fairly in the face, and to inquire whether or not collectivism is likely to become a definite political issue in English politics.

V.

Some indications have already been given of the attitude of the diversified elements in the electorate towards the existing political parties. To these may now be added the suggestion that the retirement of Mr. Gladstone, the failure — so far as one can see at present — of the policy of home rule, and the disintegration of the Liberal Party consequent upon these events, have probably much weakened the power of the constitutional parties to resist social change. The cleavage which has just taken place is doubtless merely temporary. With the passing away of the Irish question in its acute form, and with the fading of the personal differences which have been a large element in the defection of the Liberal Unionists, there will not improbably appear a fresh cleavage when "social" legislation reaches an active phase, or if the recognized parties should become the sport of an aggressive and compact third party.

The artisans of aggressive views and those members of the professional and other classes who sympathize with them regard political parties as of use only in so far as they are available for the promotion of their views. The lesson which the Irish Home Rule Party gave in 1885, when, having secured the fall of the Liberal government, it afterwards advised its adherents to vote for Conservatives at the polls, not for love of these but solely to defeat the Liberals, has not been lost upon aggressive minorities. These tactics may be destined so to unsettle political conflicts between the parties as to bring about a coalition against the disturbers. The extent to which a minority faction adopting this strategy can succeed in inspiring dread in the regular parties alternately will depend upon the skill with

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which the faction is manipulated. There is, however, an important difference between the Labor Party, for instance, and the Irish Home Rule Party of 1885. The Irish Home Rulers were then united upon a single point of attack, though their subsequent schisms have probably put it forever out of their power to repeat the experiment successfully. The Labor Party is not as yet united upon any point of attack. However severe the contest between labor and capital may be, it can hardly as yet be described as a political contest. A large part of the problem lies in the likelihood of its becoming so.

It seems necessary to analyze the general term "socialist movement," and to discover what precisely it means in England at present. The limits of this article do not admit of a description of the socialist movement during the past fifteen years;[1] it must suffice to give a general view of its present position. Apart from the anarchist group, which disbelieves in political action of any kind and which discourages any attempt to secure social progress by means of Parliament, there are broadly two parties in the socialist political movement, though these parties are again subdivided and cross-divided by shades of difference, personal and otherwise. There is, first, the group which is engaged in what has been called "the pick-axe movement."[2] This group continues the tradition of the early days, that is, of 1883–85, in which they "denounced the Liberals, Radicals, trade-unionists and coöperators."[3] They are the extreme sectarians. They take "socialism as a doctrine which they have to thrust down other people's throats."[4] Their policy is one of uncompromising collectivism. They would prevent the workingman from voting for any candidate who does not declare himself "in favor of nationalization of land, shipping, railways and all other means

[1] This has, moreover, been done up to 1888 by William Clarke in the POLITICAL SCIENCE QUARTERLY, III, 549 (Sept. 1888); and by Sidney Webb, Socialism in England (London, 1890).

[2] George Bernard Shaw, in "Liberalism between Two Stools." See the *Labour Leader*, December 1, 1894. No critics of socialism are so pungent and intelligent in their criticism as socialists themselves.

[3] *Ibid.* [4] *Ibid.*

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of production."[1] Extremists of this type are much more antagonistic to those who are near their point of view but not quite at it than to those diametrically opposed to them. There is thus much truth in Mr. George Bernard Shaw's frank statement that "the labor movement has broken down by the absence of the democratic spirit among socialists themselves."[2] The original exponents of this militant type of sectarian socialism were organized in the Social Democratic Federation.[3] The more recently formed Independent Labor Party adopts to some extent the tone, though it does not wholly share the views, of the Social Democrats. Its policy is to run candidates holding collectivist views for school boards, boards of guardians, county and town councils and the House of Commons. The plan involves much expense and a large number of men. For the London municipal elections, *e.g.*, the party supported more than one hundred candidates.

There is no doubt something to be said from the point of view of political strategy, for an uncompromising policy; but the question is, how long will it be possible to keep a sufficient number of people up to the pitch of demanding unmitigated collectivism. The experience of such movements has shown that people cool off rapidly when they find that the goal is much more distant than they had supposed. It is easier to keep public interest at high tension for an object that is being rapidly gained than for one that continues to appear very remote.

The other wing of the socialist movement may be identified generally with the Fabian Society, although this society is by no means coextensive with it. The history and views of this interesting organization are set forth with much wit and candor in the Fabian Tracts.[4] To the provincial, the Fabians

[1] Report T. U. Congress, Liverpool (Manchester, 1890), p. 36. This motion was lost by 263 votes to 55. The official report has 363, but this is an error.

[2] G. B. Shaw, "Liberalism between Two Stools," cited above.

[3] The Social Democratic Federation has never recovered from the discredit attaching to its acceptance of financial aid from the Conservative Party in the general election of 1885. Subsequent disputes have led to a succession of defections.

[4] Especially Fabian Tract No. 41: The Fabian Society: What it has Done and how it has Done it. By George Bernard Shaw. London, 1892.

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labor under the disadvantage of being cockneys, and they have very narrowly escaped earning the description of their own ingenious phrase — "gushing enthusiasts who mistake their own emotions for public movements." The strong point of the Fabians has always been "irreverent criticism." As a rule, this "irreverent criticism" has been wholesome. If it did not reveal the naked truth, it gave at least an unaccustomed reflection of it.

The policy of the Fabians is ostentatiously one of compromise. They want collectivism; meanwhile they will take whatever makes that way and will presently "ask for more." They are indifferent about party and are as frankly critical of the Liberals as of the Conservatives. Although they constitute a society, they do not believe in the continuous organization of new sects. They throw cold water upon the Independent Labor Party[1] and similar organizations, and while freely criticising the methods of such bodies, they prefer to strengthen the hands of the trade unions, the coöperative societies, the "progressive" party in the London county council, and in the London school board and the like. They regard themselves as political advisers in general. While their principles are avowedly collectivist, they devote themselves, among other exercises, to attacks upon the administration of the government departments.[2]

The program of the Fabians is as follows:

Adult suffrage, Parliamentary and municipal.
Payment of members and of election expenses.
Second ballot.
Taxation of unearned incomes.
Municipalization of land and local industries.
Provision of education at public cost.
Nationalization of canals and railways.
Eight-hours day.
Parish councils for the agricultural laborers.

[1] Preferring to leave the origination of such a party to the trade unions.

[2] See the clever manifesto "To your Tents, O Israel!" *Fortnightly Review*, November, 1893; reprinted as Fabian Tract No. 49, January, 1894. *Cf.* H. W. Massingham's reply, *Contemporary Review*, December, 1893.

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Home Rule.[1]
Reform of the Poor Law.

This program, whatever may be said of the probable economic and political effect of its projects, contains ideals admittedly remote, mingled with practical proposals whose immediate realization is quite conceivable. Parish councils, free education, reform of the poor law, including old-age pensions, payment of members and the second ballot have all been advocated on grounds other than socialistic. The Fabian policy aims at securing these mediate measures by availing itself of the services of any party, without alienating the parties by springing upon them an uncompromising demand for out-and-out socialism.[2]

What is the attitude of the mass of the working people toward these proposals? Is there truth in this statement of a popular writer?

> Whatever may be said of that class of literature represented in Germany by Karl Marx's *Kapital*, in America by Mr. Henry George's *Progress and Poverty* and Mr. Bellamy's *Looking Backward*, and in England by the *Fabian Essays*, it is deserving of the most careful study by the student of social phenomena; for it is here, and here only, that he is enabled to see with the eyes, and to reason for that large class of the population who are confronted with the sterner realities of our civilization.[3]

To me there appears no basis for this assertion. Whatever may be the soundness or otherwise of the criticisms of existing society or of the nostrums to be found in these writings, no one realizes more fully than the propagandist of socialism, that the idea that any one of them represents the opinions of the working class or of any considerable section of it, is an entire delusion. Not one of the writers of these works was a workingman. Their sympathy with the working class goes without saying: but their point of view is literary or scientific;[4]

[1] Fabian Tract No. 11: The Workers' Political Program. London, 1891.

[2] *Cf.* the characteristics of the American as opposed to the European party idea as noticed by de Tocqueville. Democracy in America (New York, 1838), p. 176. The Fabians seem to have formed themselves on the American model.

[3] Benjamin Kidd, Social Evolution (London, 1894), p. 69.

[4] Not that any of them reaches a high level.

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it is not proletarian. The proletarian cannot afford to wait for a remedy which may improve the next generation or the next again. He wants immediate relief, and he is really indifferent as to the class from which he gets it or the species of political philosophy which sanctions it. He is even largely indifferent to freedom, although he is overcome now and again by spasms of desire for mere absence of restraint.[1] He has neither the energy nor the training to think out a social philosophy, even if he had the time to do it. No doubt the "unemployed" hold socialist views; but these have come to their minds through the suggestion of others, have been imperfectly grasped, and have been practically applied in a manner that has been as a rule untoward and ineffectual.[2]

Opponents and critics of the socialist movement are no doubt very ignorant of its principles, and lack sympathetic insight into its real meaning; but they are right in this, that the real barrier against socialism is human nature. This is true in several senses. Not only does the human nature of the upper classes forbid the idea of their abandoning their position of advantage without a struggle; not only do divisions among the socialists themselves militate against the presentation of that united front which is essential to success; but the nature of the people whom socialism is specially desirous of benefiting is such that despair seizes from time to time even the most enthusiastic and disinterested of propagandists. The workingman may work out his own salvation; he refuses to be saved. It is as difficult for the religion of socialism to enter the mind and heart of man, in the full sense of conviction and conversion, as for any of the historical religions. The proletariat presents a dead wall to its own progress. The bulk of the working class, moreover, have so far exhibited no

[1] The "unemployed," for instance, will submit for a time to the discipline of the Salvation Army for the sake of the shelter and food which accompany it, and will then go back to the slums and freedom.

[2] Witness the history and policy of the Social Democratic Federation, and compare the address of Mr. G. B. Shaw quoted above, together with the tract, "The Fabian Society; What it has Done and how it has Done it." Fabian Tract No. 41.

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more disposition to have their voices drowned by the class beneath them than have the upper classes; besides, it is well realized that state socialism is a middle-class idea and has not been evolved by the working class in travail of spirit.

While the socialist propaganda may be overestimated, as in the quotation above (page 509), it may be underestimated as well. The idea of collectivism may not have been spontaneous; it may even have been to some extent foreign to England;[1] and yet it may have acquired a hold on at least a small and active section of the working class. That it has secured such a hold is no doubt true; but from the point of view of politics, all will depend upon the skill in manœuvering possessed by this section. No doubt they will acquire skill, but this takes time; and so far their own allies admit that they have shown no evidence of the acquisition. Perhaps the plain truth is that the working class, however they may be on sentimental grounds attracted by the prospect of a socialist heaven, are not prepared to leave the "solid pudding" of capitalist employment, and to entrust the "stern realities" of daily needs to the leaders of the socialist movement. It is one thing to harangue a crowd and secure applause at a street corner, and quite another to convince even the same people to permit themselves to be governed by the speaker.

Thus, apart altogether from the soundness or otherwise of collectivism as an ideal, there does not seem much likelihood of its immediate realization, saving for two considerations:

First, the activity of the propagandists may again, as in 1885 and in 1892, frighten the recognized parties into adopting some part of the aggressive program.

Second, a trade crisis or a prolonged depression might impel the working class to embrace socialism in such numbers that a large socialist party could be formed in Parliament.

On the other side, there is the possibility that the step-by-step realization of the Fabian program, for instance, would set in motion new forces which might tend to overbear the collectivist movement itself. If, for instance, the second ballot

[1] Although Marx is said to have received his inspiration from English writers.

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were established, the result might be the rising of numerous new parties and sections of parties. The weakness of propagandism would then be evident. No one would reckon seriously with a party which, on an open first ballot, could only muster a few supporters; and on occasion the forces of widely divergent parties would be combined against one to its destruction at the second ballot.[1] Again, while if the labor-vote concentrated itself upon one point in the program, and that already a popular one, it would unquestionably be carried, yet the collectivist demands look so large as they stand, that each item imperils the other.

VI.

If, however, the collectivist movement should, in spite of the drawbacks indicated above, secure for itself a definite place in English politics and definitely color legislation, what may be regarded as likely to be some of the immediate consequences?

The passing of abstract resolutions is one thing, and the construction of legislation is another. In the case of the eight-hours day, and even more in the case of the "living wage" advocated by some, divergent interests must arise — interests divergent as between district and district in the same trade, and trade and trade in the same district. This divergence continually makes itself manifest in trade councils throughout the country, and sometimes at the Trade-Union Congress. The war of separate interests, customarily attributed exclusively to commercial competition, is in fact largely industrial, and is probably to a great extent inseparable from distribution of labor, as the war of territorial interests is inseparable from distribution of land. At present the conflict of separate industrial interests, where the workmen alone are involved, is fought out in the trade-union meeting by those best informed or most deeply interested. When it reaches a dead-lock, appeal is made to the Trade-Union Congress, where again it is discussed by experts in such matters. The regulation of

[1] These developments have occurred in France, where the second ballot has produced an amazing crop of new parties, none of them by itself of any great importance.

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industry by Parliament would transfer these discussions to that body.[1] The increase of freedom and of local self-government in such a case would not be obvious. It can hardly be seriously intended that changes in productive processes should be made the subject of Parliamentary lobbying, and permitted or not permitted according as the opposition to their introduction is clamorous or not.

Yet part of the whole collectivist movement is in the direction of rescuing neglected interests — of rescuing the non-employed from non-employment, of rescuing from overwork those who are overworked, or from underpay those who are underpaid. This is very well as a general statement; but one has only to go to a trade-union meeting to realize what it means. There one finds at once in what complicated detail apparently simple matters are involved — how really complex is the industrial machine, and how hard it is to decide in a judicial way between the conflict of interests.[2] The same divergence occurs, though in a less degree, in the coöperative movement, where separate interests as well as separate views come into conflict. A great part of the energy expended in these movements has been expended in the conflict of separate interests and in the conflict between these and what has been assumed to be the general interest. When any industrial or commercial legislation comes before Parliament, the rivalry of interests at once appears.[3] Indeed, indications are abundant that neither capital nor labor has, to more than a superficial view, any solidarity. It is doubtful whether individual, or at least group interests — for

[1] "For the future, the echo of the voices of those who suffer from economic changes will be heard clamoring for relief within the walls of St. Stephens and the urban guildhalls." Hubert Bland, Fabian Essays, p. 204 (London, 1889).

[2] There is, for instance, frequent friction between the ship-joiners and the ship-carpenters, and between the riveters and their holders-on. The slightest inquiry immediately reveals abundant divergence of interests. The growth of sectional interests in the trade-union movement is admirably discussed in Webb's History of Trade Unionism.

[3] Witness the case of railway legislation, where the different railway companies have separate interests, and where large traders, small traders, long-distance traders, short-distance traders, seaport and inland traders have each separate interests. *Cf.* "The English Railway Rates Question," by J. Mavor, *Quar. Jour. of Econ.*, vol. viii, nos. 3 and 4.

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the group is simply an organization of individuals, in order that they may the more effectively secure their individual interests — have diminished in their sway, in spite of alleged progress in altruism. The clash of individual interests, within quite recent times, has retarded the most promising schemes of social amelioration. The calmness with which the group interest is accepted as synonymous with the general interest is indicative of the extent to which individualism has permeated modern thinking on economic questions. That in the clash of group interests the general interest must be secured, is as reasonable or as unreasonable an assumption as that in the clash of private interests the general interest must be secured.

Apart from the contest of labor against labor and capital against capital, there is the greater strife of labor against capital. This bulks so largely in the eyes of some that it is regarded as the real issue "in all politics."[1] This, however, is not yet the case. Indications have been given of the difficulty of organizing labor as a political force. The organization of capital is perhaps even more difficult. When the socialists attack both political parties on the ground that they are alike capitalistic, the assailants apparently fail to notice that even this party division breaks the capitalist ranks into two. Commercially, capital is more divided, more mobile, less conservative in its movements than is labor, and is equally subject to the influences of competition. There is almost no question upon which it can be said strictly that the interests of capitalists are one, any more than this can be said of the interests of labor. While the forces of capital and labor are not as yet solidly marshaled on opposing sides, there is a disposition on the part of the socialist propagandists to believe that they are. This leads them to expound with cynical frankness their views of the political relations between capital and labor.

Let it be seen that the London workman is at last aroused, that he knows on which side his bread is buttered. One lesson will be

[1] "The great conflict between organized labor and organized capital . . . is now the real issue in all politics." Sidney Webb, in the *Workman's Times*, London, January 9, 1892.

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ample. . . . In this case there is a community of interest between the Independent Labor Party and the Liberal Party. Let the Labor men use the Liberals to whip the unfair employers, and let the Liberals use the Labor men to castigate the ground landlords and the rack-renters, and between the two they will administer such a drubbing to the distressed dukes and the other believers in the power of the money-bags that they will not again quickly so insolently attempt to ride roughshod over the rights of the many in their own selfish interests.[1]

And again:

. . . Henceforth [after the London county council election, March, 1892] the workman is to step into his proper place in the representative assemblies of the nation. He is no longer to be simply the governed, but to take his share in the work of government. For he has now become so strong that if he is not treated fairly he can make it impossible for either of the great parties in the state to govern by themselves. They could only hope to do so by a coalition, and, for our part, there is nothing we could like better than to see them make the attempt. Once the capitalists of the Tory and Liberal parties come to a common understanding with the intention of maintaining that hold on the legislative machine which they have hitherto held, they would be swept away as the chaff before the wind. . . . We shall have a period during which one party will bid against the other for the workmen's votes. They have been doing that ever since 1868, but hitherto they have only made promises. They are now beginning to give an earnest of their pledges. On this occasion the Liberals have bought the labor vote, partly by their record and partly by their program. . . . As a pledge of their sincerity they have allotted a number of seats to the Labor Party. In performance of their part of the contract, the Labor Party have placed them in power with a vastly increased majority.[2]

This tone might be indefinitely illustrated by reference to the labor newspapers and to labor addresses. The general interest is either ignored or is assumed to be identical with the particular interest which is clamoring at the moment. It is this which has produced an uneasy feeling, especially among those who have some claim to be regarded as philosophical

[1] The *Workman's Times*, London, February 27, 1892.
[2] *Ibid.*, March 12, 1894.

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radicals, and who, in their attachment to the idea of freedom, have hitherto had invincible faith in the people. They leaned for a time in undisturbed optimism upon the Benthamite principle: "Every man follows his own interest as he understands it, and the part of the community which has political power will use it for its own objects. The remedy is to transfer political power to the entire community." [1]

But political power and electoral power are not quite the same, and the "general will" has no infallible interpreter or trustworthy means of declaration. The general interest is not necessarily secured by the general vote; for the general vote may mean simply general opportunity for demanding the satisfaction of private or group interests. The spectacle of English politics becoming closely assimilated to the politics of the United States when a tariff bill is being discussed and the opposing interests are lobbying at Washington, is not attractive to the philosophical radical. He did not expect that "the reconstruction of society on a collectivist basis" would be among the first demands of "the entire people" into whose hands he had confided the exercise of political power.

The elements of discouragement for the socialists may be taken as crumbs of comfort for philosophical radicals and Conservatives of the anti-democratic type.[2] The labor movement is ineffectual. The working class does not trust its leaders, and the leaders do not trust each other. These leaders have not shown themselves possessed of any skill in parliamentary debate or in electioneering tactics. They have been easily won over by social and political influence; they have been more potent on the platform than in the council. The working class is divided into innumerable sections by differences in "views" or in interests. It is too selfish or too astute to pay the expenses of labor candidates. If these think they can win a collectivist state for it, they are welcome to make the attempt.

[1] Sir Henry Maine, interpreting Jeremy Bentham. Popular Government, (London, 1886), p. 83.

[2] Although these last have all along had the satisfaction of being able to say: "I told you so."

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Should the agitators succeed, the working class will gain; should they fail, nobody but the agitators will be any the worse.[1] The cynic might say that the mob is always irresponsible and always anxious to save its head and its pocket.

The results of the recent general election in many ways confirm these criticisms. No doubt in some constituencies, such as Newcastle-on-Tyne, the labor vote cast against the Liberal candidate secured his defeat; but the smallness of the direct labor vote, the numerous cases in which labor candidates were defeated in working-class constituencies, and above all the return of an overwhelming Conservative majority, show that *Demos* has not yet entered into his kingdom. The disposition among the rank and file of both parties in the new Parliament will probably be to give the Tory-democratic coalition an opportunity to bring forward social legislation — old-age pensions, for example. This will undoubtedly bring out the sectarianism above described; for the Friendly Societies will steadfastly oppose old-age pensions except on certain onerous terms; and the socialists will object on the ground that the measure does not go far enough. The financial arrangements also will awaken the interests of different sections. The collectivist program as a whole must necessarily remain in abeyance. All these things show that the place of labor in politics is as yet uncertain, were it only because of the divergent and fluctuating interests and views of labor itself.

JAMES MAVOR.

UNIVERSITY OF TORONTO.

[1] These criticisms are mainly collected from trade-union and socialist addresses.

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REVIEWS.

Les Origines de l'Ancienne France: X^e et XI^e Siècles. II. *Les Origines Communales. La Féodalité et la Chevalerie.* Par JACQUES FLACH. Paris, Larose et Forcel, 1893.—584 pp.

The second volume of M. Flach's *Origines de l'Ancienne France*, valuable as it is for the whole life of the middle ages, calls for attention in this place, where historical investigations are viewed mainly in their relations to the larger features of social evolution, chiefly on account of the early chapters, which may not improperly be described as one long polemic against the late M. Fustel de Coulanges. To M. Flach's treatment of other themes, such as the rise of the mediæval town, I hope to return on some other occasion.

M. Fustel's view is stated by M. Flach (page 28) with sufficient accuracy as follows:

> The organization of the country districts of Gaul, before and after the Germanic invasions, was based entirely on the Roman organization. The Romans either did not know, or were but slightly acquainted with, the village; they knew only the villa, the large farmstead with its dependencies, the center of a considerable estate. The villa-system introduced by them into Gaul there developed and prospered. The Barbarians found it there, and adopted it so completely that all the rural population, with but few exceptions, was [soon] to be found divided among these villas.

This, as we have just said, is a fair enough statement of M. Fustel's theory: though it should be carefully borne in mind that that great scholar took frequent occasion to make it clear that all that he was arguing for was the *predominance* of the villa-system, and not its complete occupation of the field;[1] and also that by "village" he meant not simply a cluster of houses, but something like the "village" of modern France—"a group of some fifty or a hundred families not only free but *proprietors of the soil.*"[2] And upon such a theory M. Flach does well to concentrate his attention; for if accepted, it would have the profoundest influence upon our conception of the subsequent social and economic history of France and, indeed, of western Europe. M. Flach's utterances have been received with a chorus of welcome by those to whom M. Fustel's opinions, or

[1] L'Alleu, pp. 35 (top), 37 (top). [2] *Ibid.*, p. 38.

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his methods of expressing them, were distasteful. And yet in my judgment M. Flach's book leaves the subject very much where it was before. That this is so will appear from a review of his argument.

1. As to Celtic Gaul (page 31). Cæsar tells us there were very many *vici.* True. But, as M. Flach goes on to say, it is extremely probable from other reports of Cæsar that "the population of these villages was composed of the clients and tenants of the chiefs, knights and druids." The full force of such an admission can only be grasped if we keep well in mind the significant words: "Plebes pæne servorum habetur loco."[1] And to any one who has a keen sense of social evolution, the problem frames itself in some such question as this: What would be likely to be the effect of Roman rule when it came upon dependent groups such as M. Flach indicates? This is a question he makes no attempt to answer. Instead of doing so, he goes on to remark that according to Cæsar there were *aedificia* and they were scattered over the country. M. Fustel had argued[2] that the meaning of *aedificia* might be explained by the practice of Varro and Columella, who used the word to denote the farm buildings in the midst of a villa-estate. M. Flach on the other hand declares that "la plupart semblent de petites fermes éparses dans la campagne, habitation du *paysan* avec granges, écuries ou étables." For all proof he refers to a number of passages of Cæsar, which speak of the difficulty of getting fodder when *aedificia* are scattered, or the like, and which give absolutely no indication of the social position of the persons to whom the *aedificia* belonged. And by thrusting in that little word "*paysan*," which inevitably brings to mind the modern French peasant, he imports into Cæsar just what he seeks to prove from him. If it must be confessed that M. Fustel, on his side, leans too heavily upon the authority of Varro, it must be pointed out that M. Flach's imagination is singularly limited by modern associations when it begins to play round "rara et disjecta aedificia." And then he throws evidence to the wind, and goes on: "Leur réunion" — which Cæsar has never hinted — "forme le village disséminé, dont le type se retrouve de nos jours en Bretagne et en Suisse."

Perhaps! But between "our day" and that of Cæsar are eighteen centuries, in which a good deal could happen.

2. In any case, the relative numbers of the dependent groups whose existence M. Flach allows, and of the independent groups in which, without clear evidence, he also believes, we can only judge

[1] De Bello Gallico, VI, 13.

[2] Origin of Property in Land, p. 146.

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from what Cæsar tells us of social conditions generally; and we have already seen what that is. M. Flach, however, goes on with happy serenity to the Roman period: "Après la conquête romaine, les villages," (which? dependent or independent? that makes all the difference) "disparurents-ils? Loin de là. Leur existence nous est attestée par les inscriptions et les itinéraires" (page 32).

As far as the several parts of his argument can be disentangled it seems to be composed of the following propositions:

(*a*) That the inscriptions and laws make frequent mention of *vici* (pages 32, 33). This is, of course, allowed by M. Fustel; but it is pointed out by him that the term *vicus*, designating the lowest administrative unit, was applied to a street or to a quarter of a town, as well as to a rural group.[1]

(*b*) That rural *vici* were inhabited by various classes; by most of the middle class known as *possessores*, by townsfolk who had become *coloni* to escape taxation, by tenant farmers, by tenant slaves (pages 34–37). As to the last three classes, M. Fustel has whole sections on each, as *constituents* of the villa organization;[2] where he undoubtedly differed from M. Flach was in supposing that each *vicus* thus inhabited was really the property of some person or family. As to the *possessores*, M. Fustel grants that there must have been some villages in which these preponderated, to account for the powers of joint action and self-government which some *vici* evidently enjoyed.[3] It is fair to argue, as M. Flach does elsewhere (page 49), — that he makes too sharp a distinction between "villages d'hommes libres" and "agglomérations de serfs." But after all it is a quantitative question. M. Flach thinks it "*invraisemblable*" that most of the *possessores* lived in the towns; Professor Marquardt believes that "*grossentheils*" they did, and "left on their property only *coloni*, slaves and freedmen."

Moreover, M. Flach himself declares that "the rapid growth of the Gallic towns under Roman rule drew thither the aristocracy of the country, and henceforth they only visited from time to time their *aedificia now transformed into villae*, or their *villae* newly created" (page 34). These are the estates on which M. Fustel fixes his — perhaps too exclusive — attention. In what proportion to these did the free or composite villages stand? M. Flach seems to assume

[1] L'Alleu, p. 38. *Cf.* Marquardt, Römische Staatsverwaltung, p. 8, and see also *ibid.*, p. 9, n. 4, for the difficulties due to the circumstance that many of the inscriptions seem to refer to town *vici*.

[2] L'Alleu, pp. 50–79.

[3] *Ibid.*, 40.

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that the latter preponderated. For an unpartisan opinion we cannot do better than to turn to Professor Mommsen:

> Such as Cæsar found the Gallic communities, with the mass of the people held in entire political as well as economic dependence, and an overpowerful nobility, they substantially remained under Roman rule; exactly as in pre-Roman times the great nobles, with their trains of dependents and bondmen to be counted by thousands, played the part of masters each in his own home.[1]

(*c*) That the *vici* had a local administration of their own (pages 36–40). That where the other conditions allowed it the *vici* might enjoy such rights, is proved by the laws; and that *some* did exercise them, is proved by the inscriptions. This M. Fustel allows,[2] though not so distinctly as one could wish. But that every *vicus* enjoyed local self-government is a different matter. Even M. Flach would allow that in many cases the *vicus* — as in the well-worn instance from Cicero's letter[3] — was nothing but a private estate.

3. Then comes a brief chapter on "the villages of the Germans before the invasion" (page 43). We have to thank our author for excerpts from a report of the year 1844 upon the state of Algiers, which present some remarkable parallels to the well-known passage of Tacitus concerning the Germans. But the value of M. Flach's own attempt to reconstruct early German society may be not unfairly judged from his treatment of the other *locus classicus*, the passage from Cæsar. To pass over his picture of the "impenetrable forests and sandy plains (*landes*)" separating the peoples — for which he boldly refers to Cæsar's "vastatis finibus";[4] what is to be said of this:

> A l'intérieur de ce territoire, les chefs ou principaux de la peuplade assignent chaque année à chaque clan (gens) un territoire plus petit *que les chefs du clans répartiront à leur tour entre les diverses familles* (cognationes).

Cæsar's words are: "Magistratus ac principes in annos singulos gentibus cognationibusque hominum, qui una coierunt, quantum et quo loco visum est agri attribuunt."[5]

It will be seen that for *two* stages in the process M. Flach has absolutely no authority in Cæsar. If we knew certainly, from other evidence, that first there was a distribution to *gentes;* that the *cogna-*

[1] The Provinces of the Roman Empire, trans. Dickson, I, p. 93.
[2] L'Alleu, p. 41, n. 1.
[3] *Ad me scribis, mea Terentia, te vicum vendituram.*
[4] De Bello Gallico, V, 23. [5] *Ibid.*, VI, 22.

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tiones were parts of the *gentes;* and that there afterwards followed a further distribution to these *cognationes:* we should have to say that Cæsar made a singular muddle of his attempt to describe the method of partition. But we do not know all this.

4. Finally we pass to Frankish Gaul. Here M. Flach draws an important distinction. In the north, northeast and east of Gaul he believes that the German clans remained united, and that they settled upon unoccupied territories (pages 56–59); there, apparently, the whole "mark-system" grew up. Reaching this point M. Flach seems to rely entirely on his modern German authorities, especially Waitz; and he does not deign to consider M. Fustel's detailed examination of their evidence in his *Recherches* and elsewhere; although he agrees with him as against some of his adversaries that the inhabitants of the villa in the section *De migrantibus* of the Salic Law can hardly be regarded as co-proprietors. In the rest of France he supposes that "the kings and principal chiefs seized the *villae*, whether still being worked or abandoned, and created new ones . . . by the aid of Gallo-Romans skilled in agriculture and versed in rural economy" (page 55); but he urges that all the "simple warriors" cannot be supposed to have become tenants of *villae.* They entered, he supposes, into the free or composite villages, and revivified them (page 56). This seems possible; though M. Flach gives no very definite evidence in support of it. Here, again, the quantitative problem forces itself upon us; and this he does not face. He makes, it is true, a number of positive assertions, as that numerous places can be mentioned which were "veritable villages," although they bore the names of individuals with the suffix *acus* (page 50), and he cites M. Longnon as testifying that places whose modern names contain traces of *vicus* were "veritable villages" from the Frank if not from the Roman period (page 53); but he gives us no means of testing the accuracy of the statements. The evidence adduced by M. Fustel certainly raises a presumption that from the first the large properties predominated; and if so, and if, under the pressure of taxation and invasion, the small proprietors were drawn into the *villa* vortices (*cf.* page 61), then it would appear proper to see in the fortunes of the *villae* the main clue to the early economic development of the country.

M. Flach's criticism is certainly not valueless. It puts us on our guard against the spirit of system which few readers of M. Fustel can have altogether failed to notice in his work. But it also suggests the remark that it behooves future workers in the field to start without

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prepossessions and, as far as limitations of space will allow, to produce their own evidence in a shape in which it can be readily criticised. M. Fustel has evidently caused some exacerbation of temper by the rough treatment to which he has subjected certain respected teachers. But if his work is taken seriously, and personal animosities are forgotten, it will be clear that it is no longer enough to defend doctrines that have the support of revered names against what seems iconoclastic attack. The negative criticism of M. Fustel has gone too deep for this to be sufficient any longer. It is fresh constructive work that is now called for.

W. J. Ashley.

Harvard University.

Outlines of English Industrial History. By W. Cunningham, D.D., and Ellen A. McArthur. New York, Macmillan & Co., 1895. — 274 pp.

Dr. Cunningham, with the coöperation of Miss McArthur, of Girton, has furnished the second volume for the Cambridge Historical Series, for which Mr. Rose has already furnished the first. It is suggestive of present tendencies in historical writing that at Cambridge, at least, the word "historical" is interpreted to cover not only the economic aspects of history but also the historical aspects of economics. Dr. Cunningham's book admirably justifies this uncommon use of the word; for no one would pretend to-day to have mastered the history of England without a knowledge of its industrial and commercial development. In fact, industry and commerce have made England's greatness possible.

At first sight the reader may be tempted to think that the *Outlines of English Industrial History* is but an epitome, a kind of school edition, of the *History of English Industry and Commerce*, with the commercial aspects omitted. In this he will be mistaken; for the smaller work differs from the larger both in arrangement and in treatment. It is in no sense "written down" to meet the capacities of immature minds, although it is written in a simpler and more direct style. It also takes largely into account the commercial aspects of English economic life, although the title gives no indication of this. It is the sort of book that Dr. Cunningham could best write after the completion of the larger work because of the fullness of knowledge acquired and the better understanding of the proportions of the subject and the relations of the different parts. In that there is greater continuity of treatment and a clearer recognition of a definite line of

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progress, the smaller work is an improvement upon the larger. In the latter we feel at times lost in the detail of the discussion; in the former we see our way clearly from beginning to end.

The method of treatment is partly historical and partly topical, although each topic is treated historically and the reader is led by slow degrees historically forward. This progression carries him through the phases of the internal expansion of England, from manor to town, from town to the self-supporting nation, and from that to the nation drawing its subsistence from all parts of the globe and exercising a cosmopolitan influence. Whether the discussion be upon agriculture, money, fisheries, condition of the poor or any such topic, the reader is never allowed to lose sight of the main point — the industrial and commercial expansion of England.

In so small a book there is little opportunity to discuss debatable questions. Yet Dr. Cunningham reviews everything afresh and presents a number of interesting conclusions. He rejects the Roman origin of the manor, but is inclined to accept as a starting point a body of serfs or some kind of voluntary association — a conclusion no more satisfactory than the other. He does not commit himself on the question of the security or insecurity of the villein tenure, not considering it of any economic importance. He defends mercantilism and the navigation laws on the ground that the advantages surpassed the disadvantages. He shows that there was reason in Charles I's demand for ship-money, and argues that the depression and poverty of the laboring classes after the Napoleonic war were not due even chiefly to the introduction of machinery. What he says of the growth of joint-stock companies and the ousting of private firms (page 120) will hardly hold good in this country, where one-third of the banks are conducted by private firms.

On page 212 he speaks of the "uncertainties of the Napoleonic wars" and "the terrible depression which followed," and yet there is nothing said of the influence of the Continental System. Even the larger work has no account of the effects of this system on England, though it is difficult to see how the industrial history of this period can be appreciated without a discussion of this question. The strain upon England's resources in 1807–8 was only relieved by the Spanish war; bankruptcy was only averted by the opening of the markets of Central and South America; and the crisis was not passed until the system, turning on itself by the decree of October 9, 1810, compelled Russia to throw open her ports and declare for neutrality. Surely this economic crisis

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is insufficiently appreciated by Dr. Cunningham. It was more injurious, it is true, to continental than to English industry, and yet a study of its effects at home is not only instructive but necessary. The increase of the manufacturing output, the bad harvests, the Luddite riots, the storing of stock at home, the commercial depression, the stagnation of business, the complaints of merchants and manufacturers leading to the modification of the Orders in Council in 1809, the speculation attending the sudden opening of ports in 1809 and 1810, — all these things can be best appreciated in their relation to the commercial situation as defined by the continental blockade.

After so long and thorough a study of the history of industry and commerce, Dr. Cunningham's conclusions regarding many modern problems are worthy of attention. He decries the destruction of the forests (page 19); questions the stability of England's present prosperity (pages 25, 89); believes in trade unions (page 106); doubts the advisability of state interference except in a limited degree (pages 107, 237, 238); considers competition an evil, with indispensable advantages (page 141); is willing to believe in bimetallism, but doubts if a standard more stable and less fluctuating than gold can be arranged (page 148); does not recognize the desirability of giving every laborer "three acres and a cow" (pages 232–233) — though he says nothing of the "eternal salvation" which Archbishop Przluski added in his promise to the Polish peasantry in 1848; is willing to agree that while free-trade is necessary for England, it does not follow that it is the best policy at present for America (pages 245–246).

I have said nothing of Miss McArthur's share in the writing of this volume. It is impossible to determine from internal evidence what that share is. She will doubtless be content with the honor of having coöperated in the production of so clear and suggestive a book.

CHARLES M. ANDREWS.

BRYN MAWR COLLEGE.

Die Sozialpolitischen Ideen Alexander Herzens. Von DR. OTTO VON SPERBER. Leipzig, 1894.

A very suggestive illustration of the effects of political persecution upon the spread of proscribed ideas is presented by the fate of Alexander Herzen. For well-nigh forty years his name could not be mentioned in the Russian press. The censorship succeeded in completely excluding the works of the great writer from the knowledge of

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the new generation of educated Russians. But his ideas have, through the influence of his disciples, permeated the whole Russian literature of the "post-emancipation" period. Since in Russia literature is the only avenue of public activity open to private citizens and therefore the only channel for the expression of public opinion, a close acquaintance with a writer of so wide an influence is indispensable to any one who would study the present political situation of that country.

It was through Herzen that the teachings of Robert Owen and the French "utopian" socialists of the first half of our century found their way into Russia. Confined originally to a small select circle in the capitals (St. Petersburg and Moscow), the new doctrine very soon made its appearance in broad daylight, and through Tchernyschevsky was given a national mould. With Herzen and Tchernyschevsky the philosophical problem of socialism was: How shall the free development of the personality of the individual be guaranteed in a society based upon the principle of communism? (page 90). After the banishment of Tchernyschevsky his teachings underwent somewhat of a process of differentiation. The individualist side of the question was espoused by Pissarev and his school, who became prominent under the name of Nihilists and derived their spiritual ancestry from Proudhon. The communistic tendency, on the other hand, brought forth a quasi-religious and essentially idealistic movement under the leadership of Peter Lavroff. In the subsequent course of evolution it shaped itself into "peasantism," to use Stepniak's term, whereas the individualistic tendencies of the Pissarev Nihilism can be traced under the mystic mantle of Count Leo Tolstoi's anarchism.

It will be seen from this brief outline that "the social and political ideas of Alexander Herzen" cannot be studied without relation to the political and intellectual development of Russia for the past half-century. For such a study, the author of the book under review unfortunately lacks the requisite qualifications. His acquaintance with the theories and history of socialism is derived from secondary sources, mostly opposed to socialism; one will search in vain through the vast mass of footnotes for a reference to a socialist author. Although familiar with the Russian language, Dr. Sperber has studied Russian conditions from Baltic-German authorities — the most one-sided of all foreign critics of Russia, because tainted at once with an ethnic bias and with an aristocratic prejudice against a democratic movement. Insufficient knowledge of modern Russian history and literature not infrequently leads the author into unpardonable

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blunders, of which the following are examples: Among the "*Gesinnungsgenossen*" of Herzen and Belinsky, dreaming of "the federal-socialist republic of the future" (page 123), we meet Senkowski, who was in fact the chief literary sycophant of Czar Nicholas' régime, a writer venomous in his denunciations of all advanced thinkers of his day, from Pushkin to Belinsky. Katkov, the Anglomaniac and later the champion of bureaucratic centralization of the St. Petersburg Empire, is to Dr. Sperber "the leader of the Muscovite Slavophile party" (page 126). This merely repeats the common error of most of the European journalists, confounding the Slavophiles with the reactionary bureaucratic party; whereas in reality, the Slavophiles, with all their Muscovite "A. P. A.-ism," were a party opposed to bureaucratic centralization and sincerely attached to the principles of popular self-government. No better luck has Dr. Sperber with Bakunin. A German writer is expected to be sufficiently posted on the history of the revolution of 1848 to know that "the instigation of senseless conspiracies which Bakunin expiated by exile to Siberia" (page 130), was nothing but his dictatorship in the Dresden uprising. Arrested by the royal Saxon government and delivered to Austria, he was extradited by the latter to Russia and kept a prisoner in the Peter-Paul fortress at the precise time when, according to Dr. Sperber, he was in company with Herzen, Louis Blanc, Mazzini, Carl Schurz and other political exiles who sought refuge in London after the shipwreck of 1848 (page 26).

These are, however, minor errors when compared with such unfortunate remarks as that on "the aversion of the Russian people from so important a factor of economic life as agriculture" (pages 116, 117). One at all familiar with the Russian literature on the subject feels eager to know the authority for an opinion so strangely at variance with the accepted theory, that the whole complex of ideas, religious, political and economic, which dominates the peasant mind, springs from "the power of the earth" (*cf.* Pleb Ovspensky). The authority in question turns out to be the late Michael Katkoff, who, in an editorial in the *Moscovskiya Vedomosti* (*Moscow Record*) of 1865, holds the village community responsible for the "laziness" and "intemperance" of the Russian peasantry. One might as well take for authority on the present negro question an utterance of Robert Toombs in 1860.

This lack of accuracy entirely vitiates that part of the monograph which treats of the later period in Herzen's career, when, if we are to follow our author, Herzen's influence upon Russian society gave

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way to the vigorous onslaught of Katkoff. In reality, however, while it is true that Herzen's personal influence began to wane in his declining years, it was due to anything but the philippics of Katkoff. How insignificant was the influence of this "*bedeutender Vertreter des russischen Nationalismus*" (page 116) everywhere save in governmental circles, appears from the fact that his were throughout the reign of Alexander II the only conservative periodicals, whereas a score of widely circulating and popular publications stood open to the disciples of Herzen, until finally the political and economic ideas of the latter gained universal acceptance in the press, — a fact of which ample proof is furnished by Dr. Sperber himself. Thus Herzen's ideas on the relation of the individual to society (pages 39, 40) and on law (pages 66–68), his skepticism with regard to representative government and "the utopia of popular sovereignty in a democracy" (pages 61, 64, 68), his opposition to politics (pages 77, 79), found their echo in the Pissarev school of Nihilism and, through the literary influence of that school, held full sway over the minds of Young Russia until the setback given by the political movement of the *Narodnaya Volya* (*The Will of the People*), 1878–1881. Herzen's views on the Russian village community as the bulwark against the development of capitalism and of a proletariat class (pages 88, 89, 102), have become the corner-stone of "peasantism," and, although refuted by the recent economic development of Russia, are still obstinately adhered to by all economic writers and by the whole press of the country.

While thus the critical part of Dr. Sperber's monograph must be considered a failure, full credit is due to him for the conscientious manner in which the ideas of Herzen are summed up in his compilation. As only a few of Herzen's works are translated into French or German, Dr. Sperber's monograph will serve a useful purpose and prove of considerable help to the foreign student of modern Russia who is acquainted with the works of Leroy-Beaulieu, Alphonse Thun, Plechanov and Stepniak.

I. A. HOURWICH.

L'Agriculture aux États-Unis. Par E. LEVASSEUR. Paris, 1894. — 492 pp.

It is easy to read Professor Levasseur's treatise on American agriculture without giving due credit to its eminent author. The style and method are so clear and simple, and the matter is so much the subject of vague every-day knowledge, that the casual reader may

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scarcely notice the patient investigation and rare judgment that mark the book. The author modestly calls the book an *aperçu*, and it is true that it aims rather to give some consideration to every part of the subject than to deal at great length with any one part. The matter, however, is so judiciously chosen that the book leaves an impression of thoroughness as well as breadth of treatment.

The book is mainly descriptive. Beginning with a general consideration of such subjects as the conditions of farm life, the progress of agricultural methods, the rate of farm wages, the farmers' attempts at association, *etc.*, he passes in Chapters III–VI to a statistical treatment of the various products of the United States. The statistics are full without a great multiplication of figures, and are illumined by interesting comparisons. This part of the work, however, necessarily smacks of the catalogue, and will prove the least interesting to the ordinary reader.

Chapter VII is an admirable discussion of the different agricultural regions of the United States. Professor Levasseur makes a classification of his own, dividing the country into nine sections, and describes in turn the conditions peculiar to each section and the characteristics of the population so far as they affect its agriculture. The chief regret in regard to the book is that the author has not carried farther the tendency shown in this chapter to explain as well as describe the conditions of our agriculture. The book abounds in particular explanations and in most valuable reflections on different phases of the subject, but we miss a more general consideration of the social and racial causes that help determine the direction of agricultural production.

The latter half of the book deals with other sides of the question than the productive, and is, with Chapter VII, the most interesting. The methods of distributing the public lands and the effect of our policy in this direction are considered, and an excellent treatment of mortgages is given. While seeming at times almost too much impressed by the black accounts frequently given of the farmers' debts, the author concludes by showing the value of the mortgage as an indispensable instrument of credit, and characterizes it as "le pont par lequel le colon a passé du prolétariat à la propriété." Interesting use is made of the census statistics of mortgage and ownership, but one regrets that part of the space might not have been devoted to their more complete analysis. The last two chapters in the book deal respectively with internal commerce and the export trade. Under the former head are given admirable accounts of the

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elevator system, the stock-yards, methods of transportation, *etc.*, and of Chicago and Minneapolis as typical markets, while due credit is given to the speculative machinery of the grain trade for its important directive influence. Under the head of "*Commerce Extérieur*," the subject of competition in the foreign market receives suggestive treatment, and some final conclusions are given as to the future of American agriculture. The author predicts yet a prosperous career for our farmers and an important (though diminished) place in the foreign market, — but only by adaptation to new conditions. More intensive cultivation is declared necessary from now on, though the author is impressed by the amount of new land still available for the old methods of production. "S'appliquer à produire avec économie en même temps qu'en abondance," is his practical advice to the farmer, and one that corresponds well to the opinions of the most intelligent farmers themselves. Greater economy not only in production but in consumption is the chief thing needed, while by an extension of truck-farming and of the trade in manufactured food products (flour, canned goods, *etc.*) farming profits will be maintained. M. Levasseur still believes in wheat, however, as the great staple of food exports.

It is most satisfactory to welcome this able discussion of a subject so important to ourselves, and yet so little understood, as the economics of agriculture. The book presents so many sound judgments that we regret that the author did not give even freer rein to the expression of his individual opinion. It is interesting to note that while impressed with the *crise* in American agriculture, he ascribes little importance to the depreciation of silver or to the speculation in food-products as causes of the existing evils. At times the author seems to wander far from the subject of agriculture, but in doing so he gives us too much of interest to admit of complaint.

The sources of his information are extensive, including especially the official reports of the Department of Agriculture, and of the various state departments and commissioners. The treatise constitutes part of Volume 136 of the *Mémoires de la Société Nationale d'Agriculture de France.* It is preceded by a comprehensive "note" on American agriculture by the secretary of the society.

H. C. EMERY.

BOWDOIN COLLEGE.

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Die Bevölkerung Oesterreichs; auf Grund der Ergebnisse der Volkszählung vom 31. December, 1890. Von DR. HEINRICH RAUCHBERG. Wien, Alfred Hölder, 1895. — Large 8vo, 530 pp.

The Slums of Great Cities. Seventh Special Report of the Commissioner of Labor. By CARROLL D. WRIGHT. Washington, Government Printing Office, 1894. — 620 pp.

Versuch einer Bevölkerungslehre; ausgehend von einer Kritik des Malthus'schen Bevölkerungsprincips. Von DR. FRANK FETTER. Jena, Verlag von Gustav Fischer, 1894. — 97 pp.

The question of population is so fundamental in all social science that it is of perennial interest. The practical statistician, on the one hand, tries to illuminate his figures by some theory which will coördinate his facts; while the sociologist, on the other hand, seeks in statistics to find illustration of and support for his theoretical superstructure. The three works before us are of interest to both statistician and sociologist.

The object of Dr. Rauchberg's stately volume, according to the author, who was the active chief of the Austrian census of 1890, is to make the results of that census accessible to the ordinary student, especially one interested in the study of the social sciences. This has been done by the most thorough and scientific analysis of the results of the census, with especial reference to the political and social changes going on in the population. Detailed attention is directed to the question of migration, the growth of cities, the housing of the people and occupations and professions. The work is a model of what such an undertaking should be and reflects credit not only upon the author but upon the census itself, which seems to have been of a very thorough and detailed character.

The mere analysis of the Austrian census would not in itself be of sufficient interest to commend such a work to any but a small circle of American readers. The author, however, has treated his facts with such keen appreciation of the great questions of modern social development that the book becomes a repertory of inductive material for the sociologist. It will repay the latter, perhaps, to turn a moment from the study of primitive institutions to this scientific presentation by means of statistics of the changes going on in the constitution of a great modern civilized nation. It will be possible to indicate here only a few of the many interesting facts brought out.

The fundamental question in a growing population is the character of its increase. Rauchberg distinctly rejects the Malthusian

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doctrine. He declares that while population has been increasing in Austria, the rate of increase is growing smaller and the increase is due to the most favorable cause, *viz.*, a diminishing death-rate. At the same time that population has been increasing at a slower rate, prices of food have been diminishing and wages increasing. The hektoliter of the principal kinds of food, which cost nine days' labor in the "forties" and seven days' in the "seventies," cost only five days' labor in the "eighties." The meaning of this is that population no longer follows the curve of bare subsistence, but is establishing a new "standard of living" for itself.

Austria, again, is just breaking away from the trammels of feudal customs and developing into an industrial state. One sign of this is the internal migration. The percentage of strangers in the commune was 21.3 in 1869; in 1890 it was 36.1. This migratory movement is principally from the country to the city. Thirty years ago only one-fifth, now nearly one-third, of the population live in places of 2000 inhabitants. Out of 100 persons engaged in gainful occupations, there had migrated, in agriculture 29, in industry 55, in trade and transportation 62, in public service and professions 66. The chief cause of this migration is the difference in the level of wages, and this subject is carefully analyzed. One evil that flows from it is the high rent and consequent over-crowding of tenements in cities, which have grown so rapidly that they have not been able to provide house accommodation. The great question connected with the phenomenon is whether the city populations will be able to assimilate these new elements without lowering their standard of life.

On the whole, Rauchberg is inclined to take an optimistic view of these changes in the modern industrial system. The number of independent farmers has decreased, although in industry the small enterprise still holds its own. Still the whole industrial life has become more intense; population breaks over its former narrow bounds; different elements of the national life are intermingling; the old social classes are disappearing and Austria is entering upon the modern socialization (*Vergesellschaftung*) of production. Such a movement will demand, indeed, a reforming of the administrative organization which was built up for a home-staying (*sesshafte*) population. One of the first steps in this direction is the organization of the market for labor; for the author fears most of all a lowering of the standard of life by the migration of the lower-paid laborers into the crowded cities. Emigration beyond seas he looks upon with great disfavor, declaring that it destroys the standard of life of the

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new country by introducing cheap labor, while the emigrants, aided by virgin soil and machinery, compete with the home country so as to make conditions there more difficult. "Hier ein Verlust, dort kein Gewinn, beiderseits aber eine Gefahr." Seldom has emigration received harsher condemnation.

Space does not permit further citation of interesting points. Dr. Rauchberg's book is a brilliant example of the use of statistics as an instrument of investigation in sociology. If our sociologists could forget for the moment *Vaterrecht* and *Mutterrecht*, exogamous and endogamous marriages, *etc.*, they would find here some extremely interesting facts about social organization and evolution.

Commissioner Wright's special report on *The Slums of Great Cities* was prepared in compliance with a joint resolution of Congress, of July 20, 1892. The amount of $20,000 appropriated for the investigation proved to be sufficient only for certain districts in four cities, Baltimore, Chicago, New York and Philadelphia, comprising a population of 83,352 persons. To take a similar census of the slum districts of the sixteen cities of two hundred thousand inhabitants each, as originally contemplated, comprising a slum population of probably 800,000, would have involved an expenditure of from $125,000 to $150,000. As the commissioner remarks: "It is somewhat doubtful if the results would be commensurate with the expense — that is to say, it may be that the results of the present investigation are sufficiently indicative of all the conditions without any further study."

An analysis of this report is of interest to the student of social conditions from two points of view. First, as to the actual results in throwing light upon the condition and character of the poorest portion of the population in our great cities; here the report will be indicative only. Second, as to the method employed in making the investigation, whether it was adequate and satisfactory, and up to the latest scientific requirements.

In respect to results, some of the interesting points brought out are as follows:

Who live in the slums? With the exception of Chicago, the colored population is less numerously represented in the slums than in the city at large. The foreign-born, on the other hand, are much more numerous in the slums than in the total population. The total foreign-born in the city of Baltimore is 15.88 per cent of the total population, but in the slum district canvassed it is 40.21 per cent. The figures for Chicago are 40.9 per cent for the city and 57.51 per

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cent for the slums; in New York, 42.23 per cent for the city and 62.58 per cent for the slums; and in Philadelphia, 25.74 per cent for the city and 60.45 per cent for the slums. These figures are conclusive.

The analysis by nationality is much less conclusive because only a portion of the slum district in each city was taken, and in the well-known concentration of nationalities which characterizes cities the omission or inclusion of certain blocks (*e.g.*, Bohemian and Italian districts in upper New York) might easily change the proportions. The nationalities most numerously represented in the districts canvassed were: in New York, Italians 45.27 per cent; in Baltimore, Germans 23.9 per cent, Russians and Poles 9.04 per cent; in Philadelphia, Italians 24.15 per cent, Russians and Poles 23.2 per cent; in Chicago, Italians 16.7 per cent, Russians and Poles 17.07 per cent. These figures point unmistakably to the character of our recent immigration.

In regard to demographic characteristics the results are not particularly new. The number of males exceeds that of females; the size of family is slightly larger than usual in Chicago, New York and Philadelphia, while in Baltimore it is smaller; the proportion of married persons is larger in the slums than in the total population, — a fact that is due, probably, to the large proportion of the foreign-born. Illiteracy is heavy, occupations are varied, and physical ailments remarkably absent.

In regard to general social condition, we find over-crowding to be especially common in New York and Chicago, the number of persons to a dwelling being 36.79 in the former city and 15.51 in the latter. Sanitary condition was generally reported "fair" or "good," very seldom "excellent." The cubic space per individual in sleeping rooms was generally less than is desirable. The biological examination of the air of tenements showed a remarkable absence of bacteria.

The methods employed in this investigation seem to have been as thorough as the subject permitted. The examination of the air, the measurement of rooms and the analysis of sanitary conditions were rather novel. The comparisons in respect to vital statistics and criminality with the population of the whole city are not very convincing, because of the lack of general statistics. The results in regard to health seem to need confirmation. In fact, the whole subject is so complicated that investigations covering a smaller area, or the conditions in one occupation or among persons of one nationality,

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will probably yield better results than these more ambitious undertakings. The "monograph" or the private investigation seems to be more in place here than the "census."

Dr. Fetter's essay on the theory of population appears as one of the publications of Professor Conrad's seminarium at the University of Halle. The first part is a critical examination of Malthus's theory of population, especially of his use of terms; and although the discussion is somewhat difficult to follow in its German dress, yet it appears that Malthus used his terms in many different senses, so that it is impossible to say that he succeeded in formulating a true law of population (page 44).

Of more practical interest is the author's excellent collation of recent statistics for the purpose of showing the movement of modern population. The marriage-rate is decreasing in almost all countries, and the birth-rate is also decreasing. Notwithstanding this, population is increasing, owing to a corresponding decrease in the death-rate. Any prospective check on population must be looked for in one of two directions, either in an advanced age at marriage, or in a smaller number of children per marriage. Statistics do not show that age at marriage is advancing. They do show that there is a tendency to smaller families, especially among the middle classes, who are actuated by the desire to maintain and improve their standard of life. The true check upon over-population is psychological. This thought is not new, but Dr. Fetter has supported it with some very ingenious investigations of the relative birth-rate between classes as exemplified by a great variety of statistics from Paris, Berlin, London, the United States and elsewhere.

RICHMOND MAYO-SMITH.

Coöperative Production. By BENJAMIN JONES. Oxford, University Press, 1893. — 550 pp.

This volume contains the completest statement yet made of the coöperation idea in England. The reader should keep in mind that Mr. Jones is the manager of the London Coöperative Wholesale Society. The ideal of this society is not that of the profit sharer or of the Labor Association, which promotes production-coöperation with partnership of the worker. If Mr. Maxwell, of the great rival Scottish society, had written this book, we should have had distinct emphasis upon "profit for the worker." Over this relation of the worker to the profits, a long and somewhat bitter fight has been waged. Year after year resolutions have been passed, such as that in Bristol, 1893, urging "the principle of copartnership of labor as

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an essential of industrial coöperation." A few great leaders of the Christian-Socialist movement still attend the congresses to shape and urge such resolutions. These seem, however, only a respectful concession to the framers. The resolution is not kept nor is it meant to be kept by the great body of those who control the real business of coöperation. It is true that the Scottish Wholesale pays a bonus to labor (the London society abolished bonus in 1876) and comes distinctly closer to the hope of those who wish to make capitalists of the laborers. Yet it is all plain in this history that, so far as actual achievement is concerned, the form of ideal cherished by the Christian Socialists is losing its hold.

So far as this is denied, appeal must be made to the superiority and more hopeful condition of the Scottish Wholesale, which still keeps the welfare of the producer (as against the consumer) clearly in view. Bonus is now given to labor, as profits are given to the consumer. The Investment Society exists to bring the workers into the Wholesale as shareholders, and care is taken to make the investments of the Wholesale also coöperative investments. In a word the ideal of the Scottish society regards the worker as producer, making it possible for the laborer to become a shareholder and "capitalist." It wishes profits to go to him as a worker. Before the royal commission, Mr. Maxwell stated this as his "highest ideal."

Both the leaders of the English societies, Mr. Mitchell and Mr. Jones, place their emphasis, not on the producer, but upon the consumer. This difference is not without importance. The older idea would (as profit sharing does) help the *élite* workers. The newer and more socialistic idea is to raise the standard of living among the mass. The older writers, like Ludlow, laid stress upon the greater *moral* significance of production. Consumption was regarded as selfish, while production was unselfish: "the divine element in man is the productive one, the consuming element is the terrene," *etc.* It must be confessed that this moral distinction is not a helpful one. The more socialistic view lends itself quite as fitly to ethical fervors as the other — is indeed made the ground of a higher moral appeal. The very aim of this more democratic coöperation is "to eliminate all other motives in business except those that can be honestly recompensed." "Where production and consumption so work that profit on price is abolished, social utilities may exchange in such manner that none may rob another."

One sees in this volume a distinct growth of the more socialistic conception of distribution. Trade-unionism appears to have at least

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a closer theoretical affiliation with coöperation and both show in their aim a growing unity with the ideal of the new municipal socialism.

The only misgivings felt by the reader of this admirable book is as to the treatment of coöperative production. The *Labor Copartnership* of August, 1894, shows the extent to which the copartnership idea *together with the sharing of profits and management* has now reached. The whole number of societies had grown from 15 in 1883 to 109 in 1893; the sales for the year from £160,751 in 1883 to £1,292,550 in 1893; profits in the decade had risen from £9,031 to £67,663. It appears too that the ratio of failures has fallen to a lower mark. The chief difficulty — not of manufacturing, but of finding a market — is said also to be diminishing. This is so far a hopeful realization of Neal's ideal, "of substituting in the busy world of industry united concert for antagonistic conflict, and thus making the ever-growing command over the powers of nature attained by man as conductive as they may be made to the well-being of the working masses, instead of leaving the wealth thus produced to be divided by a scramble."

JOHN GRAHAM BROOKS.

CAMBRIDGE, MASS.

Problemi Sociali Contemporanei. Di A. LORIA. Milan, M. Kantarowicz. — 131 pp.

In this volume Professor Loria has gathered seven discourses delivered in the early part of 1894 at the University of Padua. They were undertaken at the petition of a large number of students, who asked the distinguished author to expound in brief form the general doctrines of political economy. But political economy, as understood by Professor Loria, is a very large subject; and accordingly we have here a discussion of the fundamental questions of social organization and social development. The titles of the discourses, after the first and introductory one, are: Liberty, Property, Socialism, Social Darwinism, Evolution, and Revolution, — a list which indicates sufficiently how wide a range of general questions is covered.

The brilliant qualities of the Paduan professor appear once more in this slender volume: the wide learning, the skillful logic, the contempt of shams and indirections, the fervent advocacy of a better social system, the eloquent style. We can believe that crowds pressed to hear the lectures, and that they were published in response to urgent requests; nor will they fail to attain the object, which is

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modestly stated in the preface, of stimulating among the author's countrymen a healthy discussion of the great problems of social organization. No layman can read these pages without being stirred to interest and inquiry, while even those who have made it their business to follow the literature of social speculation will not fail to find fresh thoughts and new points of view. Nevertheless, these are but popular lectures, covering the widest of problems in very brief space. It is not to be expected, as it is not pretended, that they should explain completely the author's own views. Still less is it to be expected that they should set forth any body of generally accepted conclusions.

The introductory chapter, and that next following, on "Liberty," paint in unsoftened tones the evils and inequalities of social conditions as they are. That on "Property" refutes summarily and incisively the theories which trace the institution to occupation, to labor, to force of law, or what-not; but, characteristically enough, says nothing of the simple utilitarian theory, which would weigh strongest in the minds of most economists. The historical sketch under "Socialism," could hardly be surpassed within the limits given; except, indeed, for the exaggerated praise given to Marx. In the chapter on "Social Darwinism," there is a somewhat easy confutation of current misapplications of the theory of natural selection to social phenomena. Finally, under the heading of "Evolution," the author's own views of the laws of social development begin to be unfolded; and in the closing lecture, on "Revolution," he points the road to the peaceful accomplishment of an inevitable social transformation.

Underlying all this, of course, is the ingenious doctrine which was set forth in the *Analisi della Proprietà Capitalista*, and which has evidently become more and more firmly fixed in Professor Loria's mind. To the present writer the theory of pristine equality and of free land, which is the foundation of this new philosophy, seems untrue to history and weak in logic; the application of that theory to the explanation of all economic and social development, seems forced and artificial; the "mixed association" under free land offers no solid promise of a social utopia. It is inevitable, therefore, that he should dissent from the conclusions summarized in the volume here under review. But such dissent is not inconsistent with a high respect for the learning and the ability of the author, or a cordial appreciation of the brilliant talents which he has again shown in this his last publication.

F. W. TAUSSIG.

HARVARD UNIVERSITY.

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Aspects of the Social Problem. By Various Writers. Edited by BERNARD BOSANQUET. London and New York, Macmillan & Co., 1895. — x, 332 pp.

Here is a book of vigorous thinking born of actual experience in social fields. Its pages abound in sound sense, scientific insight and practical suggestion. There is a great deal in it of what many are now feeling after, that is, something to help them to define and grasp the social problem in its essential nature. From it we get the impression that the leaven of right thinking and feeling — the one condition of all genuine reform — is working its way through English life on matters social. If these contributions are really typical of the way in which social England is regarded by her writers, then one may rest assured that such men as Matthew Arnold and Huxley have had much to do with this result of disencrusting the social spirit and giving direction to the released energy of life in the social policy of the England of to-day.

Mr. Bosanquet, the editor of the volume, contributes six of its papers; seven are by Mr. H. Dendy, two by Mr. H. M'Callum, and three by Mr. C. S. Loch. Of the eighteen papers comprising the book, nine have appeared in periodicals and nine are new. All are timely; not a single one is used for padding. A sentence from the preface gives the key-idea of the book: "In social reform character is the condition of conditions . . . though it should be definitely recognized as the extreme of folly to despise the material conditions of life." The point of view common to all the writers is this, that to a great extent the social problem is the problem of the poor, and that they who work with and for the poor should enter into their thoughts and feelings so as to comprehend their lives from all sides. The first two essays by Mr. Bosanquet, on the "Duties of Citizenship," and the last three, on "The Principle of Private Property," "The Reality of the General Will" and "Socialism and Natural Selection," all help to unfold the social problem in its wider and deeper connections with other commanding issues. The author finds the historic character of citizenship given in the typical Greek communities of ancient times. The civic spirit, to which modern democracy is giving revival, is the domain of the common good, in the light of which it was the great duty of Hellenic citizens to adjust and exercise their lives. Instead of the simple and homogeneous community of the ancients the modern wilderness of interests has come, disturbing and breaking up the life of the state into a vast variety of corporate and social centers for which we have as yet found no simple principle of unity,

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except that of law backed by the force of majority. This is our problem: to find and live the type of life that is healthy and sound for the good of the community or state. In the other essays the editor does some encouraging work in social psychology. The chapters on "Character in its Bearing on Social Causation" and "The General Will" are suggestive of Wundt, and are both clear contributions to scientific sociology.

"The Industrial Residuum" is a study made on the spot. It deals with that type of character which is but an incoherent jumble of negative qualities — a mass of social wreckage. To define membership in this class of impotent folk, Mr. Dendy takes some fundamental characteristic of the individual, some disposition or habit which determines his industrial behavior. This characteristic he finds, not exactly as Marshall does, in the incapacity to do "a good day's work," but rather in an insuperable aversion to continuous work, shown by the disposition to "drop out" — a condition favored, though not necessarily caused, by the existence of "busy seasons" or industrial spurts in special occupations. Another characteristic is a low order of intellect, unreliable as to its information about even the commonest facts of life; finally there is always present a degradation of the natural affections, marked by absence of all feeling of responsibility between parents and children and brothers and sisters. This analysis is accompanied, however, by an abiding confidence on the part of the author in the social arrangements in which these incapables believe and manage to exist. Another study of Mr. Dendy's is a valuable aid to our understanding of the real social situation. His "Children of Working London" might be taken as a model report for a legislative committee. It is a brief, luminous, suggestive presentation of a mass of facts. The author begins by observing children in five or six back-yards in a block of workingmen's dwellings, from which he enters fully into the real life of childhood among the laboring classes of the chosen block. He finds its sources of enjoyment, its indifference and its misery — why it fails and wherein its shortcomings consist as a social element. In this light he criticises the schools, the sanitary policy, the factory employers and inspectors, so far as they conduce to this result.

The two contributions of Mr. M'Callum, on "The Protection of Children" and "Some Aspects of Reform," are both historical and critical. In the latter we have something solidly hopeful. The wholesome faith asserts itself here, as throughout these papers, that after all our devisings "to do something" for those who have fallen

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short in the struggle for existence, the family life of the English people is still the ark of the sanctuary, and that the hope of social betterment lies in strengthening the resources of this mainstay of social independence both from within and from without. This, in brief, is the creed of the new, yet old, reform of which this book is a positive exponent.

As illustrative of methods of sociological investigation these essays are an earnest of the good results that come from a study of types as the means of insight into attending conditions. One of the best examples is Mr. Loch's paper on "Returns as an Instrument in Social Science." This gives the first clear indication of the right way of escape from too confiding reliance on statistics as our main instrument for social investigation. The elaboration of the type by the descriptive study of important cases has long been the method of the naturalist, and it is bound to triumph in sociology if logic and observation have anything to say to it. This is the method by which all the most valuable studies in this volume have been worked out — by the method of types, which is primary, rather than by the method of statistics, which is secondary in social science.

All these papers indicate familiarity with current literature and programs of reform in England. Several papers treat quite fully of the leading practices and proposals in public notice relative to private charity and public relief; the central theme of discussion is still the Poor Law; "Marriage in East London" is a study with a ghastly aspect; "Women's Position in Industry" is a summary of conditions brought out by the report of the Royal Commission on Labor. The various plans for old-age pensions are ably discussed by Mr. Loch. The preventability of old-age dependence is shown to be increasingly practicable even as things exist. The whole issue is declared to lie between the historic policy of social independence as the end of pauper administration, and the policy of social dependence of a possibly increasing class through any scheme of pensioning. The former relies on a preventive condition of personal character, family connections and the workhouse to check and cure the evil; the latter on quick, costly expedients, in the use of which we have no experience.

Taken altogether, the book is a competent summing up of the social problem as the last few years have developed it in English experience, from the conservative but intelligent and sympathetic worker's point of view.

JOHN FRANKLIN CROWELL.

COLUMBIA COLLEGE.

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American Charities. A Study in Philanthropy and Economics. By AMOS G. WARNER, Ph.D., Professor of Economics and Social Science in the Leland Stanford Jr. University. New York, T. Y. Crowell & Co. — 430 pp.

Thirty years ago one would not have thought that philanthropy and economics could have any dealings with each other. As then generally regarded, political economy was barely human, and the farthest possible from humane. To pity was the first function of humanity; to profit, the business of economics in practice. At the present day, however, it is next to impossible to keep philanthropy and economics apart in any discussion of social affairs.

From the sub-title of Professor Warner's book one might expect philanthropic conduct and feeling to be treated co-equally with the economic interests of society. But we find on examination that the main title means that neither philanthropy nor economics is treated here, but that these two polar impulses — the philanthropic and the economic — define the limiting points of survey within which an excellent study of pauperism in the United States is made. The causes, the classes, the revenues and the relief systems of American pauper life comprise the four parts of this very compactly written book. There are thirty-three tables of statistics, most of them explained in the body of the text. The author takes creditable care to interpret these figures so as to mislead no careful reader as to the importance to be attached to them. Most of the chapters are prefaced by a condensed paragraph of bibliography. The tone of the writer is none too confident, nor too critical, yet is healthfully hopeful.

The methods and the materials of such a book are of great interest to the student of social science. Yet the author seems to have had the administrative interests mainly in mind throughout its preparation. The classification of causes of poverty which Dr. Warner outlines in a schedule of eighteen different influences, under the two divisions of subjective and objective, would be improved, I think, if the divisional heads were cut off. Personality and conditions of social existence are the only two scientific grounds from which sociological conditions can safely be considered. This is the virtual assumption underlying the exceptionally well-digested chapters (III, IV) on individual and social degeneration, as the ulterior conditions of pauperism and dependence. The theoretical portion of the book closes with a chapter on "Charity and Human Selection." I am not quite sure what sociological postulates

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are taken for granted throughout this discussion of pauper phenomena; but I gather that the result — pauperism — arises out of the conditions of individual and social degeneration, and that back of all this lies the dominating process of "human selection."[1]

The eight chapters in Part II on "Dependent Classes" contain the gist of the book as an analytic study of existing conditions, apart from the financial aspects of the problem. For the American almshouse the author has little good to say. Three evils are pointed out as fatal to its efficiency: inadequate classification of inmates, laxness of admission and discharge, lack of a work-test. This view, I think, is historically defective. Without denying the full pertinency of this negative criticism and the fact of many disgraceful abuses — and no American institution has escaped its share of abuses — the almshouse system in the older states, considered apart from its connection with cities for whose use it was never really intended, has not by any means failed in its legitimate function — the care of the worthy poor. Practically all adverse criticism has been based on administrative perversions of the system, which have turned the almshouse proper into an asylum for the insane, a den of dissolutes and a tramp-trap. This condition, together with the dependence of the almshouse upon the local magistracy under the fee-system of commitments, has gone far enough to break down one of the soundest of American institutions — the county almshouse conducted on an agricultural basis. The testimony of experience, particularly of municipal and other supervisory experience, is arrayed against outdoor relief. Six states, however, spent over two and one-half millions in out-relief in one year, so that there must be another side to the question. Wider inquiry will no doubt show that the *system* of relief is not the real source of defective administrative results, but rather the *social conditions* which create and sustain relief-systems.

On the unemployed, the conclusion is reached by Dr. Warner that relief as a remedy in trade depressions should be given after due investigation, on a productive basis as far as possible, and through work which might be done at low rates on business principles. With the homeless poor, the remedy of experience lies in the indeterminate sentence in the house of correction for habitual vagrants and drunkards, in the way of which stands our "infamous system of county jails." For the ordinary wanderer there is really no remedy save the lodging-house, the work-yard and investigation. Labor colonies and vagrancy are carefully examined and results summed

[1] I would suggest *selective survival* as a safer term for this use.

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up; though I find no reference to the experiments in Australia, whose kindred social situation ought to make her experience more directly helpful to us than that of continental European communities. The chapter on dependent children is a healthful piece of exposition, showing the decided advantage of getting children into family keeping, as against the pernicious system of wholesale rearing in institutions.

No portion of this book is more timely than Part III, on "Philanthropic Financiering," treating of public charities, private charities, endowments, and subsidies to private charities. Part IV, on "Supervision, Organization and Betterment of Charities," treats mostly of methods and more recently developed features in organization. The chapter (XIX) on the organization of charities is probably the best study to be had on those voluntary agencies which in the larger cities have come to the rescue and the reformation of the older systems of relief within the past fifteen years.

As a survey of American charities the book deals too exclusively with the conditions from the side of the few great cities, leaving comparatively out of account the population of the vast rural domains and the smaller towns in which conditions and methods, as well as results, often teach a different lesson. On this account one great cause of poverty seems to have entirely escaped the writer's attention, namely, the necessary loss to personal capacity by the transfer from rural to urban conditions of life, especially in the case of the young, but generally of all ages. It is not a collapse, but rather what geologists would call a "fault"—continuity on a somewhat lower moral plane, by a let-down through absence of sustaining social conditions. Comte noted this as a preëminent fact. It is not lubricity; nor is it disregard of family ties; it is the inevitable outcome of social transplantation. This sociological law of "personal discount" incident upon circulation in a new social medium, taken in connection with the strong urban movement, would explain a vast amount of pauperism in cities which the author's analysis (page 28) does not seem to include. He deals almost wholly with conditions in twelve or fifteen American cities only, nearly all of which have a population of a quarter of a million each. The other 3700 cities and villages in the United States, having populations from over 200,000 down to 1000, doubtless have evolved much valuable experience that equals, if it does not exceed, in scientific importance that of the dozen leading cities for whose experience the work speaks so ably. In short, the author's treatment of the broad subject of American

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charities, while scientifically sound as far as it goes, is logically defective because it excludes from treatment too large a portion of the actual content of the subject. For municipal pauperism or charity comprises a subject of quite recent development compared with the older historical conditions. It is too much the habit of the times to write and reason about things American much as the English tourist does — as if this country had little in it except a score of cities connected by railroads running through nowhere. Dr. Warner deserves thanks for what he has done in this volume, but he has only touched the vast theme of American charities in a few badly infected spots.

JOHN FRANKLIN CROWELL.

COLUMBIA COLLEGE.

Natural Rights. A Criticism of Some Political and Ethical Conceptions. By DAVID G. RITCHIE, A.M. London, Swan Sonnenschein & Co.; New York, Macmillan & Co., 1895. — xvi, 300 pp.

Professor Ritchie's work conforms very faithfully to the purpose which he says animated its production, namely, "to expose confusions, to set those people thinking who can be induced to think." No more promising field is to be found for the writer whose aim is the exposure of confusions than the literature of "natural rights." Of all the opportunities offered Mr. Ritchie has made excellent use. The spirit in which he takes up his subject is broad and philosophical; his method of treatment is clear and logical; and in his style the lapses from dignity are far less numerous than in some of his earlier writings.

The plan of the work presents, first, a general historical and critical treatment of the theory of natural rights, and second, a detailed discussion of particular natural rights. Under the first head, the history of the theory and the history of the idea of "nature" in law and politics are accurately and suggestively reviewed. The mere colorless narratives are fatal to the creeds which *a priori* thinkers have based upon the terms involved. After what seems a superfluously elaborate chapter on "Rousseau and Rousseauism," and an excellent analysis and classification of the different senses in which the term "nature" appears in philosophy, Professor Ritchie, in answering the question "What determines Rights?" exposes the underlying principle of his own philosophy. He advocates the doctrine of "evolutionary utilitarianism." "Natural rights" he concedes a philosophical sig-

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nificance only in the sense of "what ought to be in an ideal society." The test of what ought to be is social, not individual, utility — "account being taken not only of immediate convenience to the existing members of a particular society, but of the future welfare of the society in relation, so far as possible, to the whole of humanity." And in anticipating a very obvious criticism, he adds:

> If it is argued that such an appeal is at least as ambiguous as a mere reference to natural rights, I answer, No: for in appealing to social utility we are appealing to something that can be tested, not merely by the intuitions of an individual mind, but by experience. History is the laboratory of politics. Past experience is indeed a poor substitute for crucial experiments; but we are neglecting our only guide if we do not use it. This means no slavish copying of antique models, but trying to discover, from consequences which followed under past conditions, what consequences are likely to follow under similar or under dissimilar conditions now. [Page 103.]

I am not prepared to say, after a careful study of the chapter under consideration, that Professor Ritchie has laid down a wholly satisfactory foundation for his polemic; I am not sure that he securely bars the way to that conception of the state as an end-in-itself in which such a quantity of dreary discussion is immanent; but I do feel that in the passage quoted, reënforced as it is by many other passages in the book, he is on the firmest ground that a philosopher of politics can occupy.

The second part of the work takes up *seriatim* the rights of life, liberty, property, *etc.*, that have figured as "natural," and illustrates exhaustively the futility of the *a priori* view of them. The relativity of rights is the fundamental principle of the criticism; and of especial effectiveness is the author's exposition that, back of all the individualistic theories about rights anterior to the state, there is an inevitable implication of a degree of social order that only political organization can explain. So, in examining the Kantian and Spencerian formula of justice, which has had such a vogue, Mr. Ritchie says:

> The principle of equal freedom, if taken as the ultimate basis on which the fabric of law and government is to be built up, would either compel a complete abstinence from all action on the part of every individual . . . or it would mean the equal right of every one to do everything in the sense of Hobbes, *i.e.*, the war of all against all. The intermediate meanings, which *seem* to make the principle of equal freedom a plausible account of what justice is, all presuppose an orderly fabric of society in which the rights of individuals are settled for them by a fixed system of law. [Page 147.]

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It is unnecessary to follow in detail the discussion of the different "rights." The book is valuable because its whole object and effect is to throw aside vague abstractions and pin debate down to definite, intelligible questions. The problem of toleration, the problem of the liberty of public meeting and association, the problem of the sanctity of contract — all are treated as soluble not by any universal principle of *a priori* right, but by considerations of particular time and particular place, and with reference to the experience of the past. There may be in this method a negation of ultimate philosophy; but the loss of a philosophy incompatible with this treatment of political problems will not be serious.

WM. A. DUNNING.

Cases on Constitutional Law. With notes by JAMES BRADLEY THAYER, LL.D., Weld Professor of Law at Harvard University. Cambridge, Charles W. Sever, 1895. — Two volumes, xxii, 2434 pp.

Not much can be said in review of a law book which is simply a collection of cases, with notes quoted from other books, especially if the selections and quotations are made with excellent judgment and rare discrimination, and are arranged in perfectly logical order. What can be said in commendation of such a book must be said of Professor Thayer's *Cases on Constitutional Law.* The need of such a work has long been felt by the teachers of American constitutional law, and Professor Thayer's collection will be welcomed by them as a most substantial aid. The students of constitutional law in our universities can hardly be expected to possess the original reports of these cases, on account of their great cost. Professor Thayer's book will put the chief cases into the hands of every student at a very moderate expense. In accomplishing this he will have done a very great service, for which all students of constitutional law owe him their grateful acknowledgment.

I have but one fault to find with this otherwise most excellent work. It is the omission of the arguments of counsel. Young students find it extremely difficult, and experienced students do not find it always easy, to distinguish decision from dicta in the opinions of the courts. If it is not known what points were argued, the reader is all the more liable to mistake the points decided. In my own experience as a teacher I find it more satisfactory to have fewer cases, with the arguments of counsel, than more without them. If Professor Thayer would give us three volumes and include the arguments, I think his work would be even more serviceable and more generally used than in its present form.

JOHN W. BURGESS.

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Outline Study of Law. By ISAAC FRANKLIN RUSSELL, D.C.L., LL.D., Professor in the University of the City of New York. New York, Strouse & Co., 1894. — 8vo, 280 pp.

A writer who takes all law for his province and who attempts to present its leading principles in the compass of one thin volume deserves lenient judgment. Rules laid down without qualification and definitions given without explanation are easily attacked; but with a book of this sort the attack should be confined to statements that are either clearly wrong or almost inevitably misleading. Into the one or the other of these classes, unfortunately, fall many of the author's dicta concerning legal history and foreign law. When, for example, he declares that the *fideicommissa* of the Roman law were "grants" originally made for the purpose of evading the strict rules of descent (pp. 84, 94); when he says that, by adoption, a Roman son might transfer his "domestic allegiance . . . to a *paterfamilias* of his own selection" (p. 92); when he affirms that the Roman law demanded a consideration for a promise, and identifies the gratuitous promise with the *nudum pactum* (p. 170); and when he assigns to the "improper" feudal tenures, "where the return made by the tenant was a money rent or agricultural labor," a later date than that of the tenures by military service, — he is clearly wrong. When he treats *usus* as "possession under the statute of limitations" (p. 98); when he distinguishes the *tutor* as "guardian of the person" from the *curator* as "guardian of the property" (p. 123); and when he says that "*emphyteusis* may have been a clear case of feudal grant" (p. 213), — his statements are likely to produce grave misconceptions. His declarations that "the public law of nations is not older than the *De Jure Belli ac Pacis* of Hugo Grotius" (p. 15), and that "the most famous of modern codes are the Code Napoléon . . . and the Code of Louisiana" (p. 13) are hard to account for, unless the first be taken as a bit of rhetoric and the second as a piece of American chauvinism. The assertion that "heathen nations are strangers" to the code of international law (p. 16) is probably an historical reminiscence; but the statement that "in Germany much of the public administration which we entrust to the judiciary is assigned to the army" (p. 42) is one for which it seems impossible to account.

His presentation of existing Anglo-American rules is often misleading, either because his statements are too general or because his language is inexact. Speaking of conflicts of law, he declares, without qualification, that legal capacity is determined by domicile and that personal property has no *situs* (p. 21). If but a single phrase

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could be devoted to each class of questions, it would be more exact to say that legal capacity is determined by the *lex loci actus*, and that personal property, except where it is regarded as an entirety or estate, is governed by the *lex situs*. His statement that "a contract not to sue is void" (p. 166), and his remark, three pages further on, that the defendant may legally "buy his peace" from an impending law-suit, may well seem, to a beginner, flatly contradictory. It should have been made clear that the first rule applies only to a future cause of action. His statement, in the chapter on divorce, that in New York there is "a statutory presumption of death resulting from absence, *unexplained*, for five years" (p. 110), might lead the lay reader to imagine that desertion without reason stated would break the bond of marriage. The assertion that both descent and distribution, in case of intestacy, are governed by consanguinity (p. 144) leaves it unclear why the widow should have any right of of succession. The definition of an implied contract as "one dictated by reason and justice" is scarcely as definite as might be desired.

The author's attempts to account for past and present rules of law —to define the public policy on which they were or are based, are not always happy. It seems unfair to married women and foreigners to rest the legal disabilities of coverture and alienage, as he does on p. 125, on "defect of mind." *De lege ferenda*, a somewhat surprising suggestion occurs on page 267, *viz.*, that Anglo-American law ought to recognize the crime of rape "in cases where the female is the aggressor." The hypothesis seems irreconcilable with the previously unchallenged dictum of Justice Fielding, in the case of Joseph Andrews. In one instance, however, Dr. Russell has really reached the root of the matter, and sets forth a great truth with much simplicity, when he explains, on page 104, that "apart from sentiment, the legal function of matrimony is to fasten upon the head of some one man the burden of the support and education of the young."

Dr. Russell's general view of law is that of the English positivists, modified by an acceptance of the historical idea as set forth by Maine. Methodology does not interest him. "For useful purposes," he says, "the alphabetical method of classification admits of little improvement" (p. 11). For his own purposes, he follows, in the main, the arrangement of the Gaian Institutes and the Code Napoléon.

The reviewer of this work has endeavored to avoid captious criticism, and to give full weight to the defense of lack of space and

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consequent necessity of compression. It must be said, however, that the writer has practically estopped himself from using this plea by his frequent excursions into non-legal fields. In such a compendium it is somewhat surprising to find him straying, and often for some distance, into such matters as the services of Thomas Paine to the cause of American independence, the military history of our Revolutionary war, the economic effects of slavery, and the theory and practice of the gerrymander. His observations upon these subjects are always interesting and usually true; but one closes the book with an involuntary recollection of Dr. Johnson's description of a Scotch dinner — "fine miscellaneous feeding."

MUNROE SMITH.

Chapters on the Principles of International Law. By JOHN WESTLAKE, Q.C., LL.D., Whewell Professor of International Law in the University of Cambridge. New York, Macmillan & Co. — 8vo, 275 pp.

This book, as the author says, "is not a detailed treatise on international law, but an attempt to stimulate and assist reflection on its principles." Like Sir Henry Maine's collection of essays on the same subject, it may be considered as a special product of the Whewell professorship; and it is to be estimated as a collection of essays rather than as an attempt at a systematic work.

The first five chapters are devoted to a cursory examination of the nature of international law, and to a sketch of the historical growth of the subject. Something is said of the writings of Ayala, Gentilis, Grotius, Bynkershoek, Wolff and Vattel; and a chapter is devoted to the effect of the Peace of Westphalia, and to the position and influence of Pufendorf among publicists. In this part of the book no feature is presented that seems to require special comment or criticism. It relates to matters often discussed by other writers, and was intended and composed, as the author intimates, "in part performance of a professor's duty to his university."

From the ninth chapter on, various interesting questions of international law are discussed in a clear and forcible manner. The first of these is the question of territorial sovereignty, especially with relation to uncivilized regions — a question, it may be said, of much less importance to the inhabitants of those regions than to the civilized powers whose present and prospective claims may depend upon the effect to be given to discovery or to occupation, or to native treaties and titles. In the award of the Pope in 1884, in the

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dispute between Germany and Spain touching the Caroline Islands, much force was given to the claim of title by discovery, though in modern times little deference has been paid to claims of that character. Nevertheless, discovery was the sole basis of many of the old Spanish claims. In this relation Professor Westlake observes that the "titles which Portugal and Spain first claimed over the eastern and western worlds were not founded on discovery, but on papal grants." Yet, it is also true that the papal grants recognized, and to a certain extent were based upon, the idea of title by discovery. The bull of Pope Alexander VI, of May 4, 1493, which divided the world by a meridian traced a hundred leagues west of the Azores and Cape Verde Islands, provided that all lands discovered east of that meridian were to belong to Portugal, and west of it to Spain. But the Protestant powers of Europe refused to acknowledge not only the authority of the Pope, but also the effect of mere discovery, which was sufficient to confer title under the papal grants.

In a chapter on the rise of the Empire of India, and the relation of that empire to international law, Professor Westlake traces the decline of the native princes as international powers, and concludes that "the native princes who acknowledge the imperial majesty of the United Kingdom have no international existence." The dominion exercised by England is more than a protectorate. It is in reality an unlimited power of control, always ready to be exercised to any extent which the interests of the United Kingdom may demand. In some respects the position of the native inhabitants is similar to that of the American Indians. Like the latter, they are treated somewhat as "domestic dependent nations," and they do not possess the rights of British subjects unless they have undergone some process of naturalization.

In regard to the question of exempting private property at sea in time of war from belligerent capture, Professor Westlake, though he does not seem to have formed very strong opinions on the subject, closes his discussion of it by saying :

> The true conclusion appears to be that a real cause, when such may exist, for desiring the detention of the enemy's sailors and ships in order to prevent invasion or the loss of our naval supremacy, is the only adequate motive for maintaining the present practice ; and that at the commencement of a war England should offer to her enemy to enter with him into a convention, determinable by either side on short notice, for mutual abstention from maritime capture except under the heads of blockade and contraband.

J. B. MOORE.

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A Constitutional History of the House of Lords from Original Sources. By LUKE OWEN PIKE. London and New York, Macmillan & Co., 1894. — xii, 405 pp.

Mr. Pike's book is a valuable contribution to English constitutional history. Apart from the development of the House of Lords, it throws light upon various other subjects, notably the history of titles of nobility, the central courts, the privy council and the prerogatives of the crown. The opening chapters deal with the history of titles of honor from the Roman period to modern times, including the relations of the nobles to the Witan, to the councils of the Norman kings, and to the later parliament and privy council. Much attention is devoted to the history of earldoms and baronies. Later chapters contain a scholarly account of the rights, privileges and functions of the House of Lords, especially their judicial and legislative functions; and finally the changes in the component parts of the House of Lords in modern times are considered in detail. The following are some of the principal points emphasized by the author: that the earldom was regarded primarily as an office long after the Norman Conquest, while the barony depended upon territorial possessions; that the doctrine of the creation of an hereditary peerage by the summons of a person to parliament, without any mention of his heirs, is of much later growth than the reign of Edward I, and was not fully established until the sixteenth century; that the summons to parliament was a liability of tenure, and was regarded as a burden until, with the introduction of new ranks in the peerage, the struggle for precedence made it a privilege; that the prelates were peers only by virtue of their temporal possessions, and that they lost their right of trial by peers owing to their claim to be exempt from all secular jurisdiction.

Some portions of the work are marred by a lack of clearness, due in part to the use of vague terms which had various different meanings. For example, the use of *curia regis*, especially in Chapter IV, is very confusing; it is often difficult to ascertain whether the author uses this term to mean a large assembly of tenants-in-chief, or an inner circle of great officials, or a definitely organized court. Again, when he mentions the council, he does not clearly indicate whether it is the great council or an inner council. In reading Chapter IV, one is quite bewildered by the array of courts and councils to which the author refers without attempting any definition of terms. This vagueness appears in other portions of the book. In Chapter IX, for example, arguments are advanced to show that a prelate was only

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a lord of parliament, and not a peer; but the distinction between a lord of parliament and a peer is not made manifest until we reach a later chapter. In Chapter X much is said regarding the right of trial by peers; but we are not informed how the court which tried such cases was constituted, especially in the early period before the House of Lords appears as a separate body.

Mr. Pike's attitude toward the researches of others is not to be commended. He exhibits a determination to write his book entirely "from the original sources," to deal with every question *ab ovo*, and to ignore the work of his predecessors. He does not indicate which of his results are new; a novice might indeed infer that all of them are new, and that no part of the subject had ever before been investigated. In speaking of the privy council he does not refer to Dicey or Palgrave; in his chapter on the central courts he ignores Maitland's admirable introduction to the *Select Pleas of the Crown*. In dealing with the question of the early financial relations of towns to the crown he gives references to the patent rolls, which do not prove his statements; he would not have gone astray on this subject, if he had made use of Stubbs. In like manner he neglects the views of such writers as Hallam, Freeman and Gneist.

In Chapter IV he tries to show that the courts of King's Bench and Common Pleas were already established in the reign of Henry II, but his arguments are not convincing. Stubbs contends that the appointment of the judicial committee of 1178 marks the creation of the King's Bench; Pike maintains (without referring to Stubbs's views) that this committee was the court of Common Pleas. What Benedict of Peterborough, our chief authority, says regarding this matter, is more in accord with Pike's theory than with that of Stubbs; but there is no clear indication that either court was definitely constituted in 1178. That year seems merely to mark the beginning of a process of differentiation or development which later on led gradually to the establishment of these tribunals.

The question of the separation of the two houses of Parliament is summarily disposed of in Chapter XIV. Mr. Pike says:

> Regarded from one point of view the question seems almost insoluble; regarded from another it is extremely simple. It is difficult to prove when a permanent physical barrier was set between the two houses; it is easy to show that the two assemblies were always distinct. The *Curia Regis*, or King's Court, the King in his Parliament of a somewhat later time, never included the Commons. The great officers of state and the judges were summoned to it and sat among the Lords Spiritual and Temporal, but the

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representatives of the Commons, or, at any rate, the burgesses, never intermixed with them. It could have mattered but little whether the Commons, who in the early stages of Parliament appear chiefly as petitioners, formulated their petitions at the bottom of a hall, while the Lords were at the top, or in one chamber or building, while the Lords were in another. No wall could make the two bodies more distinct than they already were in nature.

I believe that this question has more importance than Mr. Pike ascribes to it, and that more light will be thrown upon it by future investigation.

CHARLES GROSS.

HARVARD UNIVERSITY.

Select Statutes and other Constitutional Documents illustrative of the reigns of Elizabeth and James I. Edited by G. W. PROTHERO, Fellow of King's College, Cambridge. Oxford, at the Clarendon Press; New York, Macmillan & Co., 1894. — 464 pp.

In looking over Professor Prothero's work one wonders that it has not been done before — an indication that the book has an obvious place to fill. The volumes of Stubbs and Gardiner have left untouched the periods from Edward I to Charles I and from Charles II to our own time. The present volume fills an important portion of one of these gaps, and no doubt we shall soon see the documentary narrative completed.

Mr. Prothero has done his work with great care. He not only gives official documents but also quotes the political and ecclesiastical writers whose opinions are likely to throw light upon the development of the constitution. In this respect his work is more comprehensive than that of either Stubbs or Gardiner, and it will save the student of the reigns of Elizabeth and James much weary searching amongst scattered material.

Ecclesiastical matters play a great part in the constitutional history of the time. Henry VIII had already been "king with the Pope in his belly," and his daughter claimed every prerogative of her father. In politics she asserted that the Parliament "should do well to meddle with no matters of state but such as should be propounded unto them" (page 119). In religion she expressed in vigorous terms her resolve not only to crush Romanism, but also not to tolerate "new-fangledness" (page 222). This latter determination was full of ill omen to the Puritans, and readers upon this side of the Atlantic will be interested especially in this struggle. The reign of Elizabeth

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is indeed the most vital in the whole of English history to the religious life of the nation. Henry VIII might break with the Pope and crush the monasteries, but Mary could still restore Catholicism. It was really under Elizabeth that the decisive struggle took place. No character has suffered more than hers from the rigor of modern historical inquiry. Yet one doubts if she can have been the vacillating woman that she is now pictured when one sees with what unchanging severity she tried to crush the Puritans and that it was probably her personal influence that saved Episcopacy. It was she who urged on Whitgift to the congenial task of harrying the sectaries. Says Camden:

> Huic [Whitgift] Regina (quae ut in politicis, ita et in legibus ecclesiasticis nihil unquam laxandum censuit) mandavit, ut ante omnia disciplinam ecclesiae Anglicanae et uniformitatem in sacris authoritate parliamentaria sancitam restauraret [page 210].

The Puritans could not escape either in England or from England until the laxer days of James, when some of them got away to the religious toleration that Holland offered, and ultimately to America. It would indeed have required great magnanimity to allow them any measure of liberty in England. When the Court of High Commission, with the authority of an act of Parliament behind it, was enforcing the bishops' jurisdiction, Chark, a Puritan clergyman, said publicly in St. Mary's at Cambridge: "Isti status episcopatus, archiepiscopatus, metropolitanus, patriarchatus . . . a Satana in ecclesiam introducti sunt" (page 197). Vigorous language was a characteristic of the time. Peter Wentworth complained in the Commons that imperious messages from the queen and rumors of her displeasure scared members from their duty. Then he burst out: "I would to God, Mr. Speaker, that these two were burned in Hell,—I mean rumors and messages" (page 120). Freedom of speech in Parliament was, as Mr. Prothero says, "a very modern institution in the time of Elizabeth" (page lxxxvii), but it was under the arbitrary Tudors that this and freedom of access and freedom from arrest became constitutional rights of the Commons.

The reign of Elizabeth is more important than that of James, and the interest of the latter is obscured by the intenser struggle of the succeeding period. Although the conflict between a claimed royal prerogative and constitutional liberty had already become acute, a real colonial movement as compared with the adventurous voyages under Elizabeth is the momentous feature of the reign of James. No doubt Mr. Prothero felt that the patents to the London and

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Plymouth Companies in 1606 lay outside of his special field. Yet they were of vast moment to England and might well have found a place in the volume, if only in view of the later question whether the colonies were subject to the Parliament or only to the crown. It was surely, too, not unimportant to the government of England that a few years earlier the East India Company was organized, which was to add conquered kingdoms to the English empire. Yet Mr. Prothero gives no documents relating to these things.

The "Introduction" of one hundred and twenty-five pages is a reasoned account of the purport of the volume. The relations between the monarch and the people and between church and state, the functions of Parliament, the executive, the judicature, the army and navy and the prerogative all come under review. Sometimes the statements are a little too sweeping. "Had Elizabeth died before 1587, the disasters of the fifteenth century would inevitably have recurred" (page xviii). "The German Protestants once subdued and the Emperor's authority reëstablished, an attack on Holland and the northern powers must have followed" (page xxvii). "Had they [France and Spain] combined their forces, nothing could have saved English independence" (page xix). One is reminded of Mr. Lowell's hero: "He wrote no poem but if he did, he would have been . . ." Two of the predictions might have been fulfilled; the third is scarcely possible; but it is, in any case, gratuitous for the historian to assume the rôle of prophet. Mr. Prothero seems to think that the fervent expressions of the last act granting taxes to Elizabeth show a deep affection for her person. But we do not look for truth in addresses to despotic sovereigns, and there is sufficient evidence to prove that the nation had outgrown the Tudor system of rule and was chafing under it.

GEORGE M. WRONG.

UNIVERSITY OF TORONTO.

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BOOK NOTES.

VARIOUS difficult and complicated questions are involved in the essay entitled *Des Effets des Annexions des Territoires sur les Dettes de l'État Démembré ou Annexé*, by M. Henri Appleton (Paris, L. Larose, 1895). One of the first of these is that of the right of diplomatic intervention in behalf of the holders of national or public debts. Such intervention has often been conceded in an unofficial form, in the use of good offices, but it is always a delicate matter and it has several times been held by international commissions that official intervention in such cases is inadmissible. M. Appleton, on the other hand, strongly inclines to the side of intervention. As to the rule which should be adopted in the case of states annexed or dismembered, he maintains that there should be an equitable apportionment of the debt, if the state is dismembered; or, if it is wholly absorbed, that the debt should continue to be a burden upon it. In view of the great increase of public debts in modern times, the questions discussed by M. Appleton possess a practical importance, and his essay forms an interesting contribution to their study and discussion.

All who have had to pursue investigations through the public documents of the United States are aware of the labyrinthine character of the task. An attempt was made to furnish a guide to searchers by the publication of Ben: Perley Poore's index to government publications. This work, however, fell far short of what was required. While it is incomplete, it is at the same time so defective in arrangement as to be almost useless to one who desires to be thorough. In the *Comprehensive Index of the Publications of the United States Government*, 1889–1893, by John G. Ames, Superintendent of Documents, Department of the Interior (Washington, Government Printing Office, 1894), we have for the period in question a carefully prepared and excellent index, constructed on an admirable plan. We hope that Congress will provide for the extension of this work of Dr. Ames to all publications of the government, from the beginning down to the present time, so that the public can gain access to the great mass of information now hidden therein.

No better text-book of republican principles and of American political science, nor any more important contribution to the political history of the United States, has ever been offered to the American

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public and the world at large than the two volumes of *Lincoln's Complete Works*, edited by Nicolay and Hay (The Century Company). These speeches, papers and writings are now in a form to be put into every library, and no American citizen and no historian or publicist, American or foreign, can afford to be without them.

Dr. Charles Borgeaud's *Établissement et Révision des Constitutions*, already reviewed in this QUARTERLY, has been translated by Professor Chas. D. Hazen under the title: *Adoption and Amendment of Constitutions in Europe and America* (Macmillan, 1895). For the edition in English an introduction has been furnished by Professor John M. Vincent. The author has chosen those features of written constitutions which lend themselves most readily to comparative treatment and best illustrate political growth. His treatment of the origin of American constitutions would have been clearer, had he dwelt more on the political conflicts which intervened between the close of the Puritan period of New England history and the opening of the Revolution. These in part caused the prevailing fear of the unlimited power of Parliament which was expressed by the colonial leaders. As a protection against that they sought, wherever possible, to erect their charters into constitutions, or pseudo-constitutions. Out of these conditions arose the later constitutional guarantees against governmental tyranny in the states and nation. But Dr. Borgeaud's treatment of his subject is most suggestive, and will doubtless attract other students to this new field of investigation.

Macmillan & Co. reprint in convenient form *The Making of England*, by Allen B. Hinds, Scholar of Christ Church, Oxford. This was the Stanhope Prize Essay of 1892. It is a study of the origin of the spirit of political unrest and religious dissent which appeared in England at the beginning of Elizabeth's reign. The writer shows how the Spanish marriage and the Marian persecution contributed to this end. He also calls attention to the increasing activity of Parliament during Mary's reign. But the most valuable part of the book is its chapters on the Marian exiles in France, at Frankfort, Geneva and Zurich. From original sources and somewhat at length the author gives the history of the conflicts between the men of Puritan and those of Anglican tendencies — the followers of John Knox and of Richard Cox — among the exiles. In these conflicts the author finds the origin of the schism which culminated under the second Stuart.

From the little collection of *Essays by Joseph Mazzini*, translated by Thomas Okey and edited by Bolton King (Macmillan), may be

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derived a good idea of the great revolutionist's political philosophy. To the modern reader the proportion of perfervid declamation to reasoned argument in his writing seems excessive; but this very fact is of the greatest significance to the student of European history in the time of Mazzini's greatest activity and influence. The selection of essays for the present volume seems to have been very judicious. Mr. King's "Introduction" is sympathetic but just.

The work of Dr. Hans Blum, *Das Deutsche Reich zur Zeit Bismarcks* (Leipzig und Wien, Bibliographisches Institut, 1893) must hold a high place in the category of writings through which the preliminary processes take place in the transformation of politics into history. This volume deals with the period from 1871 to 1890. The author is frankly partisan and Bismarckian: his standpoint as announced by himself is that of "*des warmherzigen Patrioten*," which proves to mean a National-Liberal in German politics. The material for his work is chiefly official, so far as that has become accessible, and the use he has made of it renders his book almost indispensable to a student of the times. Italicized importance is attributed in the preface to the author's personal conversations with Bismarck on events and relations treated, but any specific collaboration by the prince is formally repudiated.

The utility of ancient Irish law in the study of jurisprudence and sociology was not entirely exhausted by the work of Sir Henry Maine. Indeed he only suggested, rather than revealed, the value of the subject. Much has been done in the field since he wrote; but the ground is very difficult, and its scientific exploration is greatly impeded by the persistence of ethnic antagonisms. A very valuable aid to one wishing to become acquainted with the subject is Laurence Ginnell's *The Brehon Laws* (London, Unwin, 1894; New York, imported by Scribners). This is a mere sketch of the subject; but it is systematic, intelligent, intelligible and fair. The author avows himself a Gael, and he writes from the Gaelic standpoint. But this means only that he displays a sympathy with the ancient Irish that is much more conducive to scientific accuracy than is the antipathy so common in English commentators. It is no doubt true that Englishmen generally distort Brehon institutions, in an unconscious tendency to apologize for the manner of their final extinction. Mr. Ginnell righteously protests against such distortion, especially as illustrated in the editing of the Brehon law books that are now in process of publication.

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A Summary of the Vital Statistics of the New England States, for the year 1892, is an unofficial document due to the praiseworthy zeal of the secretaries of the state boards of health. The publication of the first registration report for the state of Maine makes this summary possible for the first time. The arrangement of the data is on the lines laid down by Farr and followed in the reports of the registrar-general of England. The incompleteness of some of the returns, *e.g.* births in Maine and New Hampshire, is frankly acknowledged; and corresponding facts for European countries are introduced for comparison. Some of the facts still seem extraordinary. The marriage-rate (18.5 married persons per 1000 of the population) is higher than that of any European country except Hungary; the birth-rate (24.9) was less than any country except France and Ireland; the death-rate (19.9) was less than those of Italy, Hungary, Austria, Germany, France, Holland and Belgium and greater than those of the British Islands, Denmark, Norway, Sweden, and Switzerland. These figures need careful analysis in connection with the age-distribution of the population before they can be entirely accepted. The summary contains many other statistics, such as divorces, sex, births, deaths and marriages by seasons, still-born, illegitimate births and causes of deaths. Altogether it is the first attempt in the United States to treat our vital statistics in a way at all commensurate with their importance.

The *Statistisches Jahrbuch für das Deutsche Reich, Sechszehnter Jahrgang* (1895) contains the usual very complete data and several new features. Births, deaths and marriages for the present territory of the German Empire are given as far back as the period 1841–45, together with the corresponding rates. The population is distributed according to birth-rate in particular German states, thus showing the internal migration. The tables showing the *per capita* consumption of the chief commodities are continued, and constitute a valuable basis for estimating the social and economic condition of the people. Special attention is devoted to the foreign commerce of Germany, and four cartograms illustrate the character, quality and destination or source of the exports and imports. The fifth cartogram illustrates the criminal statistics for the period 1882–91, which are of unusual interest because it is the first decade completed since the imperial criminal code went into operation. The director of the imperial statistics shows great skill in combining in this annual publication the fundamental statistical tables which need to be repeated every year with new and fresh material, so that gradually all the important

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results of the census and the administrative departments are brought to the attention of the public.

The *Movement of Prices, 1840–1894*, published by the Bureau of Statistics, Treasury Department, Washington, contains the tables of Sauerbeck, of the London *Economist*, and those printed by the United States Senate committee. It is accompanied by a diagram showing the fluctuations in prices and in the price of silver during these fifty years. It makes accessible material which is of the greatest utility in the discussion of the money question.

Of all the valuable publications resulting from the census activity of the years 1890–91, the one containing the most interesting material in small space, is Volume IV of the *Census of England and Wales*. It constitutes the "General Report," with summary tables and appendices. In less than 150 pages and for the trifling price of 1*s*. 3*d*. we have the chief results of the census, together with many figures for Scotland, Ireland and the United Kingdom. The report itself is a scientific and impartial discussion of the data, pointing out the difficulties and imperfections of the enumeration, the probable meaning of the data, and the changes since 1881, with their probable cause.

In contrast with the above the *Compendium of the Eleventh Census*, Part II (Washington, 1894), is a heavy folio of 1065 pages. It contains vital and social statistics; educational and church statistics; statistics of wealth, debt and taxation; of mineral industries; of insurance; of foreign-born population; and of manufactures. It is a hodge-podge of subjects and of material. The tables are far too detailed and the volume too bulky for a compendium, while (as we understand it) these tables are not the final and complete ones of the census on any of these subjects. The slight expository and explanatory sections are buried in different parts of the volume, and can only be found by diligent search. How the details of the local industries of McKeesport, Pennsylvania, or the number of colored female children enrolled in the public schools of Butte City, Montana, belong in a "compendium," is probably comprehended only by the scientific head that planned this census. It is true that the present superintendent in charge of the census has supplemented this voluminous compendium by a summary of the chief data, published in a separate volume, yet while valuable in itself we miss in that the exposition which makes statistical work intelligible and interesting.

Statisticians are accustomed to look for the decennial supplements to the reports of the registrar-generals of England, Scotland and

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Ireland, as valuable contributions to the literature of vital statistics. *The Supplement to the Twenty-seventh Report of the Registrar-General of Ireland* (Dublin, 1894) contains the statistics for the decade 1880–90. The average marriage-rate was 8.62, against 9.46 in 1871–80; the birth-rate 23.3 against 26.5 ; the death-rate 17.9 against 18.3 during the previous decade. All show a decrease. The emigration shows an increase, 15.6 per 1000 against 11.8 in 1871–80. Valuable discussions follow, especially in respect to the mortality from different diseases.

Vital Statistics of New York City and Brooklyn, by John S. Billings, M.D. (Washington, 1894), is a special report of the Eleventh Census of the United States. It discusses particularly the death-rates in these two cities in relation to sex, age, race, nationality, parent nativity and different diseases. Each sanitary district in the two cities is carefully described, its area, population, density of population, character of land, kind of buildings and the nationality of the prominent elements of population. The death-rates according to nationality and from each principal disease in each district, are then compared with those of the whole city. Numerous colored cartograms make this the most elaborate attempt that we have yet had to study vital statistics in American cities. The only doubt is whether the material is perfect enough to bear this elaborate treatment. The attempt is certainly praiseworthy, considering the obstacles in the way.

Almost or quite the last literary work by the late President Julius H. Seelye of Amherst College, was a primer on *Citizenship* (Ginn & Co., 1894), designed as a text-book for classes in government and law. It sets forth in very simple terms the familiar Seelye-Hickockian philosophy of ethics and politics. The topics are arranged in the following order : First, International Law (*a*) in time of peace, (*b*) in time of war. Second, National law : (*a*) Public law, including constitutional law, conceived as the sum of the rights of government, and administrative law, conceived as the sum of the duties of government; (*b*) Private law, including political law, which is divided into the rights of the governed and the duties of the governed, and civil law.

Having successfully enlarged his Encyclopedia Britannica articles on the History of Political Economy and on Socialism into acceptable books, Dr. John Kells Ingram has now pursued a similar course with his article on Slavery. The result, *A History of Slavery and Serfdom* (London, Adam and Charles Black), is a volume of 285

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small pages, which may serve as a convenient introduction to more detailed studies of the great institutions named or as a measurably complete sketch for the purposes of the general reader. The last 47 pages are devoted to Russian serfdom and to the still existing slavery of the Mohammedan East.

The Christian State: A Political Vision of Christ (New York, T. Y. Crowell & Co., 1895), is the title of the latest work in which the Rev. George D. Herron sets forth that very peculiar compound of theology, socialism and pseudo-economics which has secured for him a considerable notoriety. The book is an elaboration of Mr. Herron's much discussed and severely criticised commencement oration at the University of Nebraska in 1894. Mr. Herron seems to be a thoroughly well-meaning man, and much that he says in this little book is true and worth heeding, but he has never acquired the scientific habit of mind and his knowledge is of the most superficial description. He thinks that "the political appearing of Christ is manifest in the increasing social functions of the state," that "there is a growing belief on the part of social reformers of all classes that a juster order of society can be procured only through the state as the social organ," and that "with this turning to the state as the social organ has risen an increasing faith in Christ as the social law-giver." He says that he regards Prof. John R. Commons of Indiana University "as our most promising and divinely opportune political economist."

The existing interest in every phase of the "woman question" justifies brief notice of three reprints. In 1893 M. Louis Bridel, professor in the Geneva law faculty, submitted to the cantonal council of state a plea for bettering the legal position of married women. This he publishes, together with a review article on the same subject, under the title: *Le Droit de la Femme Mariée sur le Produit de son Travail* (Geneva, Stapelmohr, 1893). The reforms which he recommends — complete control by the wife of her personal earnings, and effective provision for her support by her husband — have already been instituted, as he shows, in the great majority of European and American states; but in Geneva and some other Swiss cantons the law of matrimonial property relations seems to be as archaic as that of our own District of Columbia. The pamphlet gives a useful collection of recent laws. In *Le Mouvement Féministe et le Droit des Femmes* (Geneva, Eggiman et Cie, 1893), the same author presents his views on every phase of the woman question. While he demands in general that women be placed upon

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the same legal and economic footing as men, he nevertheless approves the special restrictions imposed upon female laborers by recent factory laws, and advocates the extension of similar protection to shop-girls and housemaids. He also demands that women be indemnified by the state for the loss of wages which such restrictive legislation entails! He believes that women should ultimately receive the suffrage and be made eligible to public office, but thinks that this step should not be taken until they have had longer experience of civil equality. On this latter question — woman suffrage — the Bishop of Albany (N. Y.) has already expressed his opinion; and those who imagine that they have become acquainted with his utterances through newspaper reports and denunciatory "letters to the editor" will find it worth while to obtain from the Albany Anti-Suffrage Association their brief *Extracts from the Addresses of the Rt. Rev. Wm. Croswell Doane* (1895).

In 1892 M. Jules Nicole, professor in the Geneva faculty of letters, found in the Geneva city library the Greek text of an important edict of Leo the Philosopher (A.D. 886–911) concerning the corporations of Constantinople — an edict previously known to us only by a dozen paragraphs cited by the Byzantine jurists. The text discovered by M. Nicole, and published by him in 1893 with critical notes and a Latin translation, although probably incomplete, contains 174 paragraphs and lays down minute regulations for twenty-two guilds of tradesmen and artisans. Under the title *Le Livre du Préfet* (Geneva, Georg et C^ie^, 1894) M. Nicole now gives a French translation with an admirable introduction and valuable explanatory notes. As he himself points out, the value of the edict lies not merely in the more exact knowledge it gives us of Byzantine commercial and criminal law and the light it throws upon mediaeval civilization, but also and especially in the internal evidence it affords of the absurdity and futility of governmental paternalism. The subsequent history of the Eastern Empire gives point to the moral. If, as the editor observes, Constantinople, in spite of its exceptionally favorable economic position and its monarchic government, steadily declined in wealth and power under this system, what are the chances that any similar system would prove successful in the keen international competition and embittered partisan conflicts of the present day?

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